

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1171519-1

Total Deleted Page(s) = 76

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FBI

PRIORITY:

- ☐ Immediate
- ☐ Priority
- ☐ Routine

CLASSIFICATION:

- ☐ TOP SECRET
- ☐ SECRET
- ☐ CONFIDENTIAL
- ☐ UNCLAS E F T O
- ☐ UNCLAS

Date 3/2/94

TO : DIRECTOR, FBI
(ATTN: GALE RICHARD EVANS, UNIT CHIEF,
CID, VIOLENT CRIMES UNIT,
ROOM 5042)

FROM : SAC, SAN FRANCISCO (197-39)

SUBJECT : ELMER PRATT, aka
"Geronimo"
INQUIRY OF GIL GARCETTI,
LOS ANGELES COUNTY DISTRICT ATTORNEY
OO: FBIHQ

Re San Francisco airtels to FBIHQ dated
2/16 and 22/94.

As disclosed in referenced 2/22/94 airtel, during
interview of [redacted]
[redacted] in the early 1970s there was a lawsuit
[redacted] Socialist Workers Party (SWP) Vs. Mitchell, filed
[redacted] of the Center For
[redacted] Constitutional Rights in New York. [redacted] further explained
[redacted] also handled Black Panther Party (BPP) litigation
in New York, and although the suit showed the SWP as
defendant, a number of other political entities, including
[redacted] were also plaintiffs. It was during the aforementioned
litigation and discovery order pursuant to that litigation.

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San Francisco
[Signature]

62A/HQ - 1073771
(sent as original)

Approved: _____ Transmitted _____ Per _____
(Time) (Time)

197-39-

ABW

197-39
[redacted]

[redacted]

A complete review by the Legal Staff of the San Francisco Division of file 197-8, entitled "SOCIAL WORKERS PARTY, ET AL. VS. THE ATTORNEY GENERAL, ET AL, (USDC, SDNY), CIVIL ACTION NO. CV3160 (TPG)", indicated no record located of either a [redacted] log of the alleged wiretap log entry at issue, or documentation that [redacted] had reviewed the records in the FBI San Francisco Division office space.

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With this information available, as previously indicated, it is San Francisco's position that the wiretap log entry at issue, [redacted] does not exist in San Francisco files.

Honorable Janet I
Page Two
December 1, 1993

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These affidavits seem to be in conflict with a written synopsis of a special FBI Pratt Task Force (enclosed herewith). The synopsis, appended to the California Court of Appeal opinion in *In re Pratt, supra*, at page 915, as Appendix C, is dated March 10, 1980. While the synopsis does not directly address what these investigators claim to have seen, it does indicate that FBI records do not establish an alibi for Pratt on the date of the murder. (See page 921 of *In re Pratt, supra*, Appendix C, enclosed herewith.)

Your assistance in trying to resolve this conflict would be very helpful to my office. The manner of this assistance needs to be explored, but this can be done later. Possibilities might include the FBI interviewing the two investigators and/or giving this office access to the information they claim to have seen.

Very truly yours,

Gie

GIL GARCETTI
District Attorney

fda

Enclosures

*I have also
enclosed a
copy of
report.*

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GIL GABRIELI

LOS ANGELES COUNTY DISTRICT ATTORNEY

18000 CRIMINAL COURTS BUILDING 210 WEST TEMPLE STREET LOS ANGELES, CA 90012-3210 (213) 974-3501

'93 DEC -7 10:26

EXECUTIVE DIRECTOR

Sec. 2

Dear [REDACTED]

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The AG & I discussed
this case at our meeting
on Nov. 29th. She asked
that I send it to your
attention to assure that
she actually receives the
enclosed documents.

Regards,

Gil Gabrieli

63A-HQ-1043771-17X1

ENCLOSURE

FBI

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☒ AIRTEL

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

Date 9/14/94

TO : DIRECTOR, FBI (62A-HQ-1073771)
 FROM : SAC, LOS ANGELES (62A-HQ-1073771) (RUC)
 SUBJECT : ELMER PRATT, AKA GERONIMO;
 INQUIRY OF GIL GARCETTI,
 LOS ANGELES DISTRICT ATTORNEY;
 OO:HQ

Reference 9/2/94 Los Angeles teletype to the Bureau.

Enclosed for the Bureau, VC/FU, CID are one copy each of thirty-one (31) serials from Los Angeles file 157-3447, [redacted]

As stated in referenced teletype, on 8/31/94 Los Angeles District Attorney representatives [redacted] and [redacted] visited the Los Angeles Field Office for purposes of reviewing a copy of file 157-3447, located in Los Angeles file 190-504, a Freedom of Information/Privacy Act request classification.

The Bureau is requested to process the enclosed serials in conformity with parameters used by the Civil Discovery Review Unit, Office of the General Counsel prior to dissemination to the Los Angeles County District Attorney's Office.

[redacted] was apprised as to the processing procedure and advised that when completed, redacted copies of the serials reviewed and requested by him would be provided directly from the Bureau.

③ - Bureau (Enc.31) (Att. SSA [redacted])
 1 - Los Angeles
 TSG/tsg

Approved: _____

Transmitted _____

(Number) (Time)

Per _____

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(1-VC/PD)
 (1-FDI/PA)

Rec'd 9/16/94

Memorandum



To : Mr. Richard Scruggs
Assistant to the Attorney General

From : Robert S. Conforti, Section Chief
Criminal Investigative Division

Subject: ELMER PRATT, AKA "GERONIMO";
INQUIRY OF GIL GARCETTI,
LOS ANGELES COUNTY DISTRICT ATTORNEY (LADA)

Date 10/20/94

INFORMATION MEMORANDUM

This memorandum transmits documents responsive to the letters dated 12/1/93, from LADA Gil Garcetti to the Attorney General (AG) Janet Reno and dated 3/9/94, from Mr. Garcetti to the Assistant to the Attorney General, Richard Scruggs, requesting a review of Federal Bureau of Investigation (FBI) documents to determine if the FBI possessed information relative to alleged electronic intercepts of Elmer Pratt during December 1968. In addition, Mr. Garcetti requested that the review also address an issue concerning an alleged FBI source's reporting of Pratt's activities during 1968 and 1969. The enclosed responsive documents have been redacted to be suitable for release to LADA Garcetti.

The enclosed documents were processed pursuant to a memorandum from Assistant to the Attorney General Richard Scruggs to [redacted] General Counsel, FBI, dated 7/13/94. The documents consist of approximately 112 redacted pages which have been completely or partially declassified. In addition, the redactions affecting these documents were made to protect personal privacy, source information, and information which is protected by federal statutes. Copies of the codes explaining the redactions are included with the released documents.

ENCLOSURE
Enclosure

ENCL BEHIND FILE

62A/HQ 103-111

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1 - Los Angeles

Attention SAC: Information copy being furnished.

1 - San Francisco

Attention SAC: Information copy being furnished.

1 - Mr. Conforti

Dep. Dir. _____
ADD Adm. _____
ADD Inv. _____
Asst. Dir.: _____
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Insp. _____
Intell. _____
Lab. _____
Legal Coun. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Cong. Affs. Off. _____
Off. of EEO _____
Off. Liaison & _____
Int. Affs. _____
Off. of Public Affs. _____
Telephone Rm. _____
Director's Sec'y _____

AS:as (9)

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MAIL ROOM ☐

Assistant to the Attorney General
Re: Elmer Pratt, aka "Geronimo";
Inquiry of Gil Garcetti,
Los Angeles County District Attorney (LADA)

The Violent Crimes/Fugitive Unit (VC/FU) conducted a review of pertinent FBI files dealing with Elmer Pratt, which files were situated in the FBI field offices at Los Angeles (LA) and San Francisco (SF) and at FBI Headquarters (FBIHQ). This review also included files reporting the results of previous inquiries into this general matter, including those related to the 1980 Pratt Task Force report.

Instant review is responsive to the [REDACTED]

[REDACTED]
[REDACTED] the date of a robbery and shooting at Santa Monica, California, which resulted in the death of one individual and the wounding of another. Pratt was subsequently prosecuted for these crimes by the State of California and sentenced to a period of incarceration which continues to this day. This review is also responsive to the allegation that [REDACTED]

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In the letter dated 12/1/93, the Honorable Gil Garcetti, LADA, requested that AG Reno assist his office in responding to a petition on behalf of Elmer "Geronimo" Pratt. Garcetti advised that his office was in receipt of a document from the [REDACTED]

[REDACTED] which provided an analysis of the Pratt conviction. Included in this report were two affidavits, signed [REDACTED] which claimed that [REDACTED]

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In a second letter from the Los Angeles County District Attorney's Office (LADAO), dated 3/9/94, the LADAO questioned whether the FBI had additional information on its relationship [REDACTED] The LADAO advised that [REDACTED] document alleges that [REDACTED]

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(CONTINUED OVER)

Assistant to the Attorney General
Re: Elmer Pratt, aka "Geronimo";
Inquiry of Gil Garcetti,
Los Angeles County District Attorney (LADA)

[redacted] analysis of the Pratt prosecution suggests that other persons were responsible for the crimes and that Pratt was either framed or scape-goated. The document contains several allegations and theories on this matter in addition to those addressed in LADA Garcetti's requests. This response will address only the issues identified by Mr. Garcetti and the allegation that the FBI possessed and concealed information derived from [redacted]
[redacted]

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The VC/FU has coordinated its review of this matter with LADAO Deputy District Attorneys [redacted]
[redacted]

This coordination included meetings at Washington, D.C., during which they were provided access to documents relevant to their law enforcement responsibilities in the Pratt matter.

At the heart of this matter is the allegation that the

[redacted]

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The issue of an alleged electronic surveillance and FBI failure to disclose same was recently surfaced when [redacted]
[redacted]

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(CONTINUED OVER)

Assistant to the Attorney General
Re: Elmer Pratt, aka "Geronimo";
Inquiry of Gil Garcetti,
Los Angeles County District Attorney (LADA)

[redacted] further stated that in March, 1991 she encountered Attorney [redacted] and learned that [redacted] was representing Pratt in his appeals. [redacted] stated that she related her 1975 observations to [redacted] and was surprised to learn that her information has not previously been disclosed. She then provided a signed declaration in April, 1991. A similar signed declaration was provided by [redacted]

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[redacted] were located and interviewed by the FBI at San Francisco. They provided additional information regarding their 1975 observations of "FBI wire-tap logs" and stated that their access to the FBI documents was caused by their participation in a civil discovery matter, possibly the Socialists Workers Party V. Mitchell civil suit.

Considerable investigation was conducted by the VC/FU to verify [redacted] assertions concerning their review of documents in the FBI's SF office in 1975. As a result of these efforts, it is the opinion of the VC/FU that [redacted] and [redacted] viewed the suspect logs during their review of FBI

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FBIHQ and FBI SF and LA reviewed files concerning the Dellinger V. Mitchell civil suit and located several documents which reported access to the SF field office by [redacted]

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Assistant to the Attorney General
Re: Elmer Pratt, aka "Geronimo";
Inquiry of Gil Garcetti,
Los Angeles County District Attorney (LADA)

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Further, in a letter from attorney [redacted] to Special Agent [redacted] FBI SF, dated 6/3/94, [redacted] advised that he represents Pratt and has done so for approximately twenty years. [redacted] wrote this letter to assist the FBI in identifying the matter which was reviewed by [redacted] in 1975. He asserts that his records reflect that in March 1975, Attorney Leonard Weinglass, reviewed documents at the FBI's SF office in furtherance of Dellinger V. Mitchell and that Weinglass reported

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The VC/FU can find no records which disclose or document any FBI electronic surveillance of any [redacted] in the Los Angeles or San Francisco areas during December 1968. All

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(CONTINUED OVER)

Assistant to the Attorney General
Re: Elmer Pratt, aka "Geronimo";
Inquiry of Gil Garcetti,
Los Angeles County District Attorney (LADA)

[REDACTED]

A review of LA FBI activity disclosed that the LA office requested authority to conduct a telephonic surveillance [REDACTED]

[REDACTED] However, this request was forwarded to the Department of Justice by Memorandum dated [REDACTED] and was denied in a Memorandum from Attorney General Ramsey Clark to the Director, FBI, dated [REDACTED] FBIHQ appealed the AG's declination and a requested a reconsideration for an [REDACTED]

[REDACTED] FBI LA records indicate authority was granted on [REDACTED]
[REDACTED]

Neither SF or LA FBI conducted an electronic surveillance of the [REDACTED]

FBI LA records further revealed the collection of [REDACTED]

[REDACTED]

[REDACTED]

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Assistant to the Attorney General
Re: Elmer Pratt, aka "Geronimo";
Inquiry of Gil Garcetti,
Los Angeles County District Attorney (LADA)

The VC/FU has reviewed these documents and pertinent FBI files and has come to the conclusion that these documents are related to two distinct events - ~~one a request for electronic interception of telephones at the [redacted]~~ and the other related to the consensual monitoring of a cooperative individual's residential telephone.

In the first instance, the LA FBI office requested authority, by Memorandum to the Director dated [redacted] to conduct a non-consensual electronic intercept [redacted]

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[redacted] This request prompted a series of internal FBI reviews and approvals, culminating in a request for authority to institute the electronic intercept from FBIHQ to the AG, dated [redacted]. A response memorandum from the AG, dated [redacted] declined to issue the requested authority. The FBI appealed the AG's declination to grant authority by Memorandum from the Director dated [redacted]. This appeal concerned issues beyond the instant request and thus received appropriate attention from the AG.

The second instance concerned a cooperative individual who, on [redacted]

[redacted] This cooperative individual provided such information that the FBI believed that serious acts of violence could occur and thus developed a response to [redacted]

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[redacted] included the consensual monitoring of the cooperator's [redacted]

[redacted] should he be [redacted]

[redacted]

Based on the above, the VC/FU concludes that the FBI did not conduct or have on-going an electronic surveillance relevant to the [redacted] on [redacted]. Existing FBI surveillance logs related to authorized electronic interceptions reflect no activity prior to

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Assistant to the Attorney General
Re: Elmer Pratt, aka "Geronimo";
Inquiry of Gil Garcetti,
Los Angeles County District Attorney (LADA)

[redacted] were provided any documents for review which included the date of [redacted] as no such documents existed and the relevant civil discovery order in Dellinger V. Mitchell did not include production for this date.

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A review of the prior Pratt Task Force reports indicates a possible local electronic surveillance of the [redacted]

[redacted] This information was reported by the FBI as source information, received second-hand from the Oakland Police Department. The origins of this information were unknown to the FBI and later suggestions have been made that it possibly originated from a apparently illegal wire tap by the Oakland Police. The FBI's reporting of this intelligence, for the period of [redacted]

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(CONTINUED OVER)

Assistant to the Attorney General
Re: Elmer Pratt, aka "Geronimo";
Inquiry of Gil Garcetti,
Los Angeles County District Attorney (LADA)

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[REDACTED]

In regard to the second issue - the FBI's relationship [REDACTED] the FBI has responded to this matter on previous occasions, including the Pratt task force report, and has made relevant information available to the California Courts. The VC/FU's current review has not disclosed any information which is in conflict with the original determinations as to the nature of [REDACTED] or the time period involved. The LADAO identified this as an issue for additional review because of assertions made by the [REDACTED] in his analysis. The [REDACTED] allegations stem from documents, dated [REDACTED] from SF file 91-9235 which were provided to Pratt's defense under discovery and Freedom of Information requests. Several items in these documents were redacted prior to release and [REDACTED] alleged that the redactions conceal information directly connected to [REDACTED] which conflicts with the FBI's version of events. The FBI has maintained that [REDACTED]

[REDACTED]

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The FBI LA provided unredacted copies of two documents from file SF 91-9235, dated [REDACTED]. The VC/FU reviewed the unredacted documents and determined that the information which was redacted in the public release was not relevant to [REDACTED]. The redacted information concerned an

[REDACTED]

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Assistant to the Attorney General
Re: Elmer Pratt, aka "Geronimo";
Inquiry of Gil Garcetti,
Los Angeles County District Attorney (LADA)

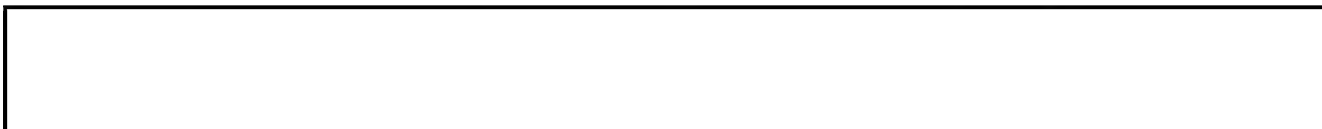
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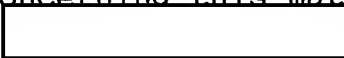
In summary, the VC/FU's review of this matter did not identify any information in FBI files which was germane to the allegation that the FBI possessed information obtained from an electronic intercept which would provide a basis for a finding of Pratt's innocence or guilt. This review did not disclose any information suggesting the existence of any electronic interception involving "Geronimo" or Pratt as alleged in [redacted] declarations. In contrast, this review indicates that the FBI was not aware of Pratt's identity or alias in December, 1968; did not associate Pratt with the Santa Monica incident until the receipt of information from [redacted]; did not conduct any electronic intercept [redacted] did not provide FBI electronic surveillance logs dated December 1968 (none existed), in civil discovery documents reviewed by [redacted] did not [redacted] and did not conceal any relevant information concerning Pratt from the Courts. Additionally, the VC/FU review failed to identify any information which would indicate that [redacted]

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(CONTINUED OVER)

Assistant to the Attorney General
Re: Elmer Pratt, aka "Geronimo";
Inquiry of Gil Garcetti,
Los Angeles County District Attorney (LADA)



Any questions or concerns concerning this matter may be
directed to Supervisory Special Agent  VC/FU
telephone number (202) 324-4294.

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Memorandum



Dep. Dir. _____
 ADD Adm. _____
 ADD Inv. _____
 Asst. Dir.: _____
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Info. Mgnt. _____
 Insp. _____
 Intell. _____
 Lab. _____
 Legal Coun. _____
 Tech. Servs. _____
 Training _____
 Cong. Affs. Off. _____
 Off. of EEO _____
 Off. Liaison & _____
 Int. Affs. _____
 Off. of Public Affs. _____
 Telephone Rm. _____
 Director's Office _____

To : Mr. Conforti

Date 10/24/94

From :

[Redacted]

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Subject : ELMER PRATT, AKA "GERONIMO";
 INQUIRY OF GIL GARCETTI,
 LOS ANGELES COUNTY DISTRICT ATTORNEY (LADA);
 00: HQ (62A-HQ-103771)

PURPOSE: To report activity associated with a request from DOJ for a review of FBI files and documents concerning Elmer Pratt, aka Geronimo, relative to a request of Gil Garcetti, Los Angeles County District Attorney (LADA) to Attorney General (AG) Janet Reno, dated 12/1/93.

SYNOPSIS: On 12/1/93, LADA Garcetti wrote a letter to AG Reno requesting that she assist the LADA in determining if the FBI has in its possession any information which will impact on a habeas corpus petition from Elmer Pratt, an incarcerated California prisoner and "cause celebre." This request was reviewed by the Department of Justice (DOJ) and forwarded to the Violent Crimes and Major Offenders Section, Criminal Investigative Division (CID), FBI, on 2/1/94.

In summary, Garcetti advised AG Reno that the [Redacted] of Centurion Ministries, provided his office with a forty-five page document that alleges that Pratt's conviction for a double shooting and homicide which occurred 12/18/68, in Santa Monica, California, was erroneous. At the time of the shooting/murder, Pratt was a recently discharged Vietnam veteran and a member of the Los Angeles Chapter of the Black Panther Party (BPP). Reverend McClosky's analysis alleges that the FBI possessed information, obtained through electronic surveillance occurring during that period, which could establish Pratt's innocence. This analysis also

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1 - Mr. Conforti

1 - [Redacted]

1 - [Redacted]

1 - Tickler

AS:as (5)

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Memorandum from S. R. Wiley to Mr. Conforti, dated 10/20/94
Re: Elmer Pratt, aka "Geronimo";
Inquiry of Gil Garcetti,
Los Angeles County District Attorney;

RECOMMENDATIONS: It is recommended that the Violent Crimes/Fugitive Unit (VC/FU) prepare an Information Memorandum for the AG addressing the allegations related to Pratt; and that the VC/FU provide enclosures consisting of redacted copies of the documents requested by the LADAO (Los Angeles County District Attorney's Office.)

[Handwritten signature]
[Handwritten initials]

ATTORNEY:	Chief of Police	Laboratory	Off. of GEO
	Chief of Det.	Los Angeles	Adm.
	Chief of Insp.	Training	Off. of Public
Director	Chief of Adm.	Personnel	& Cong. Affs.
	Inspector	Training	
Deputy Director	Inspector		

DETAILS: Elmer "Geronimo" Pratt was charged and convicted of robbery, murder and attempted murder, as a result of an incident that occurred on 12/18/68, in Santa Monica, California. Pratt's conviction was affirmed on appeal and he has unsuccessfully filed writs of habeas corpus on four occasions. Information has

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The FBI's actions regarding the BPP and the Pratt prosecution have been addressed several times since Pratt's conviction. In late 1979, the Honorable Paul N. McCloskey Jr., met with the FBI to obtain details on the FBI's possible possession of information pertinent to Pratt's claims of innocence. McCloskey sought an FBI review of the Pratt investigation to determine if any information relevant to Pratt's innocence or guilt was evident in FBI files. Pratt and others have alleged that his prosecution and conviction were part of a government effort to suppress the BPP.

As a result of McCloskey's request, the Director, FBI, ordered the formation of a task force, the "Pratt Task Force," to conduct an extensive review of all FBIHQ, FBI San Francisco (SF), and FBI Los Angeles (LA) files relating to Pratt and known associates to determine if the FBI had any information impacting on Pratt. This task force conducted not only an indices search, but also a page-by-page, line-by-line review of all files that may have contained relevant information.

[CONTINUED - OVER]

Memorandum from S. R. Wiley to Mr. Conforti, dated 10/20/94
Re: Elmer Pratt, aka "Geronimo";
Inquiry of Gil Garcetti,
Los Angeles County District Attorney;

The task force's reviews disclosed information in the possession of the FBI relevant to Pratt which concerned the existence of an FBI source who reported on Pratt, evidence of possible FBI informant(s) attendance at legal defense strategy meetings, and the existence of information possibly derived from an apparently illegal local law enforcement electronic intercept. The above information was provided to the United States Attorney,

Los Angeles, and appropriate California judicial authorities by representatives of the FBI/DOJ on 12/11/79, 12/12/79, and 12/13/79. This information was provided in document report form to the California State AG and the California Judiciary for use in Pratt's 1/18/80, habeas corpus hearing.

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[CONTINUED - OVER]

Memorandum from S. R. Wiley to Mr. Conforti, dated 10/20/94
Re: Elmer Pratt, aka "Geronimo";
Inquiry of Gil Garcetti,
Los Angeles County District Attorney;

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[REDACTED]

On 2/1/94, Special Supervisory Agent (SSA) [REDACTED] VC/FU, VCMOS, CID, FBIHQ, was assigned this matter for review and coordination with DOJ. SSA [REDACTED] initiated a review of relevant FBIHQ and field office files concerning Pratt, the Black Panther Party, previous FBI reviews of the Pratt issue, [REDACTED] ELSUR Index, and SF and Los Angeles (LA) field office files on source reporting regarding the BPP, etc.

On 2/7/94, by Director's Airtel to Special Agent in Charge (AC) SF. SF was requested to located and interview [REDACTED] regarding their allegations, to review their files on the above issues, and to provide FBIHQ with results. Direct coordination was implemented with SF Principal Legal Advisor (PLA) [REDACTED]

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On 3/22/94, coordination was implemented with FBI LA, Special Agent (SA) [REDACTED] PLA, regarding this issue and relevant files existing in the LA field office.

On 4/20/94, through contact with DOJ and FBI SF, information was developed which suggested that the alleged FBI electronic surveillance logs viewed by [REDACTED] were located in Civil Litigation and Discovery documents relating to the Socialists Workers Party V. Mitchell civil suit.

On 4/21/94, SSA [REDACTED] VC/FU, met with Richard Scruggs, Assistant to the Attorney General/Acting Counsel for the Office of Intelligence, Policy and Review, DOJ, concerning the CID's review of LADA Gil Garcetti's request on Elmer "Geronimo" Pratt. Scruggs advised that he had received a second letter from Garcetti concerning this general issue, and that this letter requested an additional review of FBI information to identify documents concerning [REDACTED] Los Angeles Police Department (LAPD) and [REDACTED]

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[CONTINUED - OVER]

Memorandum from S. R. Wiley to Mr. Conforti, dated 10/20/94
Re: Elmer Pratt, aka "Geronimo";
Inquiry of Gil Garcetti,
Los Angeles County District Attorney;

Scruggs was provided with preliminary results of CID's review and was advised that no information was developed which indicated that the FBI possessed exculpatory information for Pratt. Scruggs was advised that additional file reviews were pending, to include a review of any possible FBI "wire-tap" of [redacted] and a review of a San Francisco FBI confidential source reporting during 1968/1969. Scruggs agreed that the FBI would provide an Information Memorandum to the Assistant to the AG summarizing its review, and that DOJ would complete an appropriate written response to the LADAO request. Scruggs further advised that he anticipated some disclosure of FBI documents to the LADAO regarding this matter. He was advised that the FBI would follow appropriate procedures for document dissemination before disclosure to DOJ.

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On 5/19/94, contact with SSA [redacted] Civil Litigation Unit, Legal Counsel Division (LCD), determined that there is an existing United States District Court Order, Judgement #87,2070, 73 Civ.3160, dated 12/16/87, sealing documents and records related to the FBI's investigations of the Socialist Workers Party and the Young Socialist Alliance. The existence of this court order was related to Richard Scruggs, DOJ, in the event that any material relevant to the Pratt inquiry was encountered during the CID review.

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On 6/14/94, a meeting was held with Richard Scruggs, DOJ, concerning CID's review of this matter. Scruggs was advised that the CID reviews to date disclosed no information in the possession of the FBI which would support Pratt's alibi for 12/18/68, or suggest that the FBI concealed relevant information. Scruggs advised that he would discuss these preliminary findings with the LADAO, advising that DOJ would either issue a letter or an affidavit affirming the results.

On 7/11/94, the VC/FU received a letter addressed to Director Freeh, from [redacted] dated 6/16/94, reiterating [redacted] belief in Pratt's innocence and requesting a full FBI document review to reveal the existence of electronic surveillance logs alleged [redacted] [redacted] also provided copies of correspondence from Pratt's attorney alleging the suspected location of the FBI electronic surveillance logs.

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[CONTINUED - OVER]

Memorandum from S. R. Wiley to Mr. Conforti, dated 10/20/94
Re: Elmer Pratt, aka "Geronimo";
Inquiry of Gil Garcetti,
Los Angeles County District Attorney;

VC/FU reviews of FBIHQ files and subsequent contacts with FBI SF indicated that [redacted] may have viewed the alleged [redacted] during civil discovery litigation involving the Socialist Workers Party V. Mitchell or David Dellinger V. Mitchell civil suits. Subsequently, FBI SF received letters from Pratt's attorney suggesting that [redacted] observed the suspect logs during discovery procedures in the Dellinger V. Mitchell civil suit.

On [redacted] by Memorandum of Richard Scruggs, DOJ, to [redacted] General Counsel, the FBI was requested to provide access to relevant files and documents to representatives of the LADAO.

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On 7/14/94, [redacted] Office of General Counsel (OGC), FBIHQ, advised that Mr. Scruggs requested that the FBI provide appropriate access to representatives of the LADAO to FBI files and documents relevant to this issue. On same date, [redacted] reviewed the pertinent files and determined that there were no prohibitions which would prevent this cooperation.

On 7/15/94, Deputy District Attorneys [redacted] and [redacted] LADAO, arrived in Washington, D.C., met with the VC/FU, and were provided access to documents relevant to their law enforcement responsibilities in the Pratt matter. At the conclusion of this review, the LADAO representatives provided a listing of FBI documents they wanted copied and also a list of additional questions they believed should be answered in furtherance of this inquiry. The LADAO representatives also requested that the FBI complete its review of documents related to the Dellinger V. Mitchell civil suit, or other pertinent civil suit, to fully identify those "wire tap logs" allegedly observed by [redacted]

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During the period 7/25-28/94, SSA [redacted]

[CONTINUED - OVER]

Memorandum from S. R. Wiley to Mr. Conforti, dated 10/20/94
Re: Elmer Pratt, aka "Geronimo";
Inquiry of Gil Garcetti,
Los Angeles County District Attorney;

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On 8/1/94, the Civil Discovery Review Unit (CDRU) was tasked to review documents selected by the LADAO representatives for reproduction and turn over to the LADAO. On 8/3/94, the CDRU advised that they required the originals of these documents so that a classification review could be conducted and compared against any previous Freedom of Information - Privacy Act (FOI-PA) or civil discovery releases.

On 8/9/94, LA provided unredacted copies of two serials from file SF 91-9235 dated 5/6/69 and 6/5/69. These two serials became an issue because allegations were made by [redacted] to the LADAO that the redacted versions previously released by the FBI concealed the identity of an FBI source who was reporting on Pratt's activities and that this source was [redacted]. The FBI has maintained that [redacted] was not an FBI informant and that he did not report information to the FBI prior to August, 1969. [redacted]

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[CONTINUED - OVER]

Memorandum from S. R. Wiley to Mr. Conforti, dated 10/20/94
Re: Elmer Pratt, aka "Geronimo";
Inquiry of Gil Garcetti,
Los Angeles County District Attorney;

On 8/10/94, per a request of the VC/FU, the SF field office located and reviewed file SF 66-672B. This request was predicated upon the receipt of serials from the FBI New York Office (NYO) which indicated that access, through a civil discovery review, was granted to the plaintiffs in the Dellinger V. Mitchell suit for a review of FBI files reflecting electronic surveillance of the plaintiffs. Subsequent SF reviews located several serials which reported access to the SF field office and review of FBI electronic surveillance logs by [REDACTED]

On 8/19/94, based upon a request from the LADAO, contact was made with [REDACTED] OGC, FBI, who advised that LADAO representatives may review LA file 157-3447, with the same caveats as established for the LADAO review of files at FBIHQ. These caveats are stated in the Memoranda from Richard Scruggs, Assistant to the AG, OGC, FBI, dated [REDACTED] and from [REDACTED] OGC to CID, dated [REDACTED]. On 8/19/94, LA was advised of FBIHQ approval to grant a review of the aforementioned file to [REDACTED] LADAO, through coordination with the LA PLA.

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On 8/31/94, LADAO representatives [REDACTED] visited the Los Angeles FBI Office for the purpose of reviewing documents related to LA file 157-3447. They selected several documents as being pertinent to this inquiry and requested that the FBI, under the parameters of this inquiry, make copies of the documents available to the LADAO. On 9/14/94, by airtel to the Director, the FBI Los Angeles, forwarded copies of these documents to FBIHQ for processing by the CDRU.

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On 9/20/94, the CDRU, FBIHQ, completed its review of the documents requested by LADAO [REDACTED] during the review of 7/15/94. Redacted versions of these documents were provided to the VC/FU on 9/20/94. The CDRU will continue its review of the documents identified in the LA airtel of 9/14/94.

[CONTINUED - OVER]

Memorandum from S. R. Wiley to Mr. Conforti, dated 10/20/94
Re: Elmer Pratt, aka "Geronimo";
Inquiry of Gil Garcetti,
Los Angeles County District Attorney;

On 10/19/94, LADAO [] contacted the VC/FU and advised that he had just received additional FBI document releases from [] which purport to substantiate the claims that the FBI conducted electronic surveillance against the [] at LA prior to 2/26/69. He faxed copies of these documents and they were revealed to be redacted copies of serials from LA file 157-1618, dated 10/29/68 through 12/20/68. After review, SSA [] was immediately able to recognize that these documents represented to separate events, neither of which substantiated any claim of electronic interception prior to []

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In summary, the VC/FU's review of this matter did not identify any information in FBI files which were germane to the allegation that the FBI possessed information from an electronic intercept []





LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF SPECIAL OPERATIONS

GIL GARCETTI • District Attorney
SANDRA L. BUTTITTA • Chief Assistant District Attorney

R. DAN MURPHY • Director

October 19, 1994

Supervisory Special Agent

[REDACTED]
Violent Crimes/Fugitive Unit CID
Federal Bureau of Investigation
9th and Pennsylvania Avenue
N.W. Washington, D.C. 20535

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501. 7-175

Dear [REDACTED]

Pursuant to our telephone conversation I am sending you FBI documents that [REDACTED]
[REDACTED] provided to us that we have a question about.

As we discussed during our conversation, [REDACTED] has alleged that the telephones in the

[REDACTED]

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Also attached, for your information, are five pages of FBI reports that are alleged by

[REDACTED]

If this request will delay the processing of the other requests we have made, please treat this as a separate request.

Should you have any question regarding this request please do not hesitate to contact me.
Thanks again for your cooperation.

5- [REDACTED]
"ENCLOSURE ATTACHED"

62A-HQ 1073771

501. 7-175

*Answered
in 10/24/94
Letter [Signature]*

Very truly yours,

GIL GARCETTI
District Attorney of
Los Angeles County



Deputy District Attorney
Habeas Corpus Litigation

b6
b7c

fda

Attachments

c:



Appellate Division

FBI

Date:

Transmit the following in CODE

(Type in plaintext or code)

Via TELETYPE

~~URGENT~~

Delayed 2:36P
(Priority)

TO DIRECTOR (105-165706)
FROM SAC LOS ANGELES (157-1618)

JUNE

BLACK PANTHER PARTY.. RM - BPP.

RE LOS ANGELES TEL

~~DISCONTINUED TWO P.M.~~

b2(D)
b7D(1)

INSTANT.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 3/27/80 BY SP2 tap/jm/btj

cc. 66-5444-4A

TGM:CH
(2)

SEARCHED
INDEXED
SERIALIZED
FILED

SENT BY CODED TELETYPE

105-165706-20-102

Approved:

Special Agent in Charge

Sent 3⁰³P

Per

157-1618A-1

FBI

Date: 10/29/68

Transmit the following in _____

(Type in plaintext or code)

Via Airtel _____

(Priority)

To: SAC, Los Angeles (157-1618)

From: Director, FBI (157-10305)

BLACK PANTHER PARTY
LOS ANGELES DIVISION
RM - BPP

Memorandum and FD-142 both dated _____ recommending

whether full security is assured, as distinguished from ...
maximum possible security referred to in re FD-142.

b3

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 3/25/80 BY sp2 tef/jrm/bk

157-161

105-165706-26-36

46

Sent Via _____

M

Per _____

9

SEARCHED	INDEXED
SERIALIZED	FILED
OCT 30 1968	
FBI - LOS ANGELES	

10/31/68

AIRTEL

AIR MAIL - REGISTERED

TO: DIRECTOR, FBI (157-10305)
FROM: SAC, LOS ANGELES (157-1618)
RE: BLACK PANTHER PARTY (BPP)
LOS ANGELES DIVISION
EM - BPP

JUNE

Re Bureau airtel to Los Angeles, 10/29/68.

There are two numbers subscribed to by the [redacted]

b3

[redacted] will be made in accordance with established Bureau procedures.

The term "maximum possible security" was used in the FD-142 submitted 10/18/68 because it is felt that this term more accurately describes the situation as it exists.

The term "full security is assured" would seem to imply that no risk of discovery exists. For this reason, the term "maximum possible security" was used.

1 - Bureau (AM-REGISTERED)

1 - Los Angeles

SPJ/ECW

(4)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 3/20/80 BY SP219/KM/bt8

SEARCHED

INDEXED

SERIALIZED

FILED

105-165706-26-40

10

157-1118-A-7

FD-36 (Rev. 5-22-64)

~~CONFIDENTIAL~~

FBI

Date: 12/2/68

~~CONFIDENTIAL~~

Transmit the following in Code
(Type in plaintext or code)

Via TELETYPE Urgent
(Priority)

TO: DIRECTOR, FBI (105-165706) (SUB 26)

FROM: SAC, LOS ANGELES (157-1618)

BLACK PANTHER PARTY, RM - BPP

RE LOS ANGELES TEL TO BUREAU ELEVEN THIRTY LAST. (u)

[REDACTED]

[REDACTED]

b7D

Bureau will be kept advised.

CLASS. & EXT.
REASON - FCIM
DATE OF REVIEW

SP2 for [illegible]
12/2/88
2/14/89

157-1618-
SEARCHED
INDEXED
SERIALIZED
FILED

105-165706-26-67

~~CONFIDENTIAL~~

Approved: [Signature]

Special Agent in Charge

Sent 10:55

63

M

Per [Signature]

FBI

~~CONFIDENTIAL~~

Date: 12/13/68

Transmit the following in CODE
(Type in plaintext or code)Via TELETYPE URGENT
(Priority)TO: DIRECTOR (105-165706)
FROM: LOS ANGELES (157-1618)

JUNE

BLACK PANTHER PARTY. RM - BPP.

RE LOS ANGELES TEL TO BUREAU, NOVEMBER SIXTEEN, LAST. (u)

BUREAU WILL BE ADVISED OF EXACT TIME OF DISCONTINUANCE. (u)

cc: 66-544-4

RHB/gcw

(1)

CLASS. & EXT. BY SP-2 [signature]
REASON - FCIM 1-2.4.2
DATE OF REVIEW 12/13/89

3/27/90

SEARCHED
INDEXED
SERIALIZED
FILED

SENT BY CODED TELETYPE

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
EXCEPT WHERE SHOWN
OTHERWISE~~CONFIDENTIAL~~

Sent 3 33/7

Approved: [signature]
Special Agent in Charge

(73)

152-118A-

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

310

TRANSMIT VIA:

☒ Teletype

DATE: 8/19/94

^PAGE 1 OF 3

PRECEDENCE:

☒ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☒ UNCLAS

FM DIRECTOR FBI (62A-HQ-1073771)

TO FBI LOS ANGELES/ IMMEDIATE

BT

UNCLAS

CITE: //0607//

PASS: ATTN: PLA [REDACTED]

SUBJECT: ELMER PRATT, AKA GERONIMO; INQUIRY OF GIL GARCETTI, LOS
ANGELES DISTRICT ATTORNEY; 00:HQ

RE: TELCALLS OF SSA [REDACTED] DATED

8/9/94.

AS PREVIOUSLY REPORTED TO LA PLA [REDACTED] LOS ANGELES
DISTRICT ATTORNEY'S OFFICE (LADA0) REPRESENTATIVES, [REDACTED]
[REDACTED] TRAVELLED TO WASHINGTON, D.C. ON
7/15/94 AND WERE PERMITTED ACCESS TO CERTAIN FILES RELATED TO
THIS INQUIRY. THIS FILE REVIEW WAS COORDINATED BY THE OFFICE OFb6
b7Cb6
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62A-HQ-1073771-22

***** FOR COMM CENTER USE ONLY *****

NOTE: Copy Designations Are On The Last Page Of This Teletype!!!

Approved By

MRI/JUL

Transmitted

LP/SW/*
241/232
0436Z/84

ISN

24

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

^PAGE 2 UNCLAS

THE ATTORNEY GENERAL, THE FBI'S OFFICE OF THE GENERAL COUNSEL,
AND THE CRIMINAL INVESTIGATIVE DIVISION.

LADA0 [REDACTED] SUBSEQUENTLY REQUESTED ACCESS TO
AN FBI FILE LOCATED AT LOS ANGELES (LA 157-3447 [REDACTED])
AS THEY BELIEVED IT MAY BE MORE EXPANSIVE THEN THE FBIHQ FILE.
ON 8/18/94, LADA0 [REDACTED] ADVISED SSA [REDACTED] THAT HE
HAD MADE CONTACT WITH PLA [REDACTED] AND THAT LA REQUESTED THAT FBIHQ
APPROVE LADA0'S ACCESS TO THIS FILE.

ON 8/19/94, [REDACTED] OFFICE OF GENERAL COUNSEL,
FBIHQ, WAS CONTACTED AND SHE ADVISED THAT PURSUANT TO THE LADA0
REQUEST, LADA0 REPRESENTATIVES MAY REVIEW LA 157-3447 (LA FIELD
OFFICE FILE RELATED TO HQ 157-12300) BUT THAT NO COPIES MAY BE
OBTAINED WITHOUT PRIOR REVIEW AND APPROVAL OF THE REQUESTED
DOCUMENTS BY THE CIVIL DISCOVERY REVIEW UNIT, FBIHQ. [REDACTED]
ADVISED THAT THE LADA0 REQUEST WOULD BE A LEGITIMATE LAW
ENFORCEMENT USE OF THE DOCUMENTS SUCH THAT DISCLOSURE WOULD NOT
BE PROHIBITED BY THE PRIVACY ACT. HOWEVER, NO FILES OR DOCUMENTS
RELATED TO CIVIL SUIT, "SOCIALIST WORKERS PARTY, ET AL V.
ATTORNEY GENERAL OF THE UNITED STATES, ET AL, 73 CIVIL 3160 (USDC
SDNY)", OR AS THE RESULT OF FBI INFORMANTS IN THE COURSE OF ITS

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DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

^PAGE 3 UNCLAS

INVESTIGATION OF THE SOCIALIST WORKER'S PARTY AND THE YOUNG
SOCIALIST ALLIANCE MAY BE DISCLOSED OUTSIDE THE FBI.

LA SHOULD COORDINATE WITH [REDACTED]

[REDACTED]

LADA0, AND

FACILITATE THEIR REVIEW OF THIS FILE. DOCUMENTS REQUESTED FOR
DUPLICATION MUST HAVE PRIOR REVIEW AND APPROVAL FROM FBIHQ. NO
ADDITIONAL FILE REVIEW REQUESTS SHOULD BE ACCOMMODATED WITHOUT
PRIOR CONTACT WITH THE VC/FU, CID.////

BT

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DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 4

ADMINISTRATIVE NOTE/TICKLER COUNT:

THIS TELETYPE AUTHORIZES LA TO PERMIT ACCESS TO LA FILES BY REPRESENTATIVES OF THE LADA0 IN A MATTER CONCERNING ELMER "GERONIMO" PRATT. AG RENO HAS PLEDGED FBI COOPERATION IN THIS MATTER. LA IS ADVISED THAT NO DOCUMENTS MAY BE COPIED OR DISSEMINATED WITHOUT PRIOR HQ APPROVAL. LA IS ADVISED THAT NO FILES RELATED TO THE SOCIALIST WORKERS PARTY OF THE YOUNG SOCIALIST ALLIANCE MAY BE REVIEWED OR DISSEMINATED OUTSIDE THE BUREAU, AS THERE IS A COURT ORDER SEALING THESE FILES.

Drafted By: AS:as Room/TL #: 5042 Phone No: 4294

COPY DESIGNATIONS:

1 -

1 -

1 - TICKLER

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b7c

APPROVED:

Director

Deputy Director

Crim. Inv.

Crim. Jus. Info.

Srvs.

Finance

Info. Res.

Inspection

Laboratory

Legal Counsel

National Sec.

Personnel

Training

Off. of EEO

Affairs

Off. of Public

& Cong. Affs.



Centurion Ministries, Inc.

Seeking Justice for the Innocent In Prison

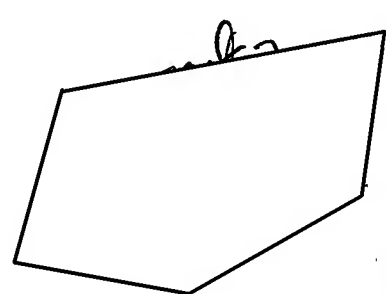
*Rec'd 7/15/94 from
Harry Southerin, LADA*

... innocent (Lk. 23:47)

A Summary and Analysis
of the 1972 conviction of
Elmer Pratt for the robbery and shooting of
Mr. Olsen and the murder of Mrs. Olsen
on a Santa Monica tennis court

June 1993

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20-117-1-2-27-7-84
ENCLOSURE



file as original
X

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Exhibit #17 (p.34)

Tyrone Hutchinson's 1991 affidavit



To: Phillips W. Mueller
Director, Branch and Area Operations, Region II
Los Angeles District Attorney's Office

From: Jim McCloskey
Executive Director, Centurion Ministries

Subject: A memo outlining why I believe Elmer Pratt is completely innocent of the murder of Mrs. Olsen on 12/18/68

Date: June 18, 1993

I. Introduction

This memo develops the detailed reasons why I am convinced that Elmer Pratt had nothing whatsoever to do with the tennis court robbery and murder of Caroline Olsen on December 18, 1968. It is based on my own close and complete study of the entire record of this case as well as my own investigation which is well underway and should be completed during my next trip to L.A. this summer.

II. Elmer Pratt's history and BPP affiliation as of 12/18/68

Mr. Pratt was born and raised in Morgan City, Louisiana. After graduating from the local high school he immediately entered the U.S. Army in June 1965.

At the age of 21, Mr. Pratt arrived in Los Angeles for the first time in his life in September 1968. Three of his seven siblings lived in L.A. at that time. In May 1968, only months before his L.A. arrival, he was discharged from the Army as an E-5 and as a heavily decorated (including two Purple Hearts) Vietnam veteran who had quite a bit of combat experience with the 1st Cavalry Division in the Central Highlands. In fact, his unit played an instrumental role in retaking the city of Hue in February 1968 during the Tet offensive.

Immediately upon his 9/68 L.A. arrival, he began life as a full-time student at U.C.L.A. living in his U.C.L.A. dormitory and in his sister's house. The tennis court murder occurred on 12/18/68. Prior to that day the only arrest Mr. Pratt had was for throwing a Coke bottle through his high school window. For that he was fined \$25 and given a 30 day suspended sentence.

By mid-December 1968, Geronimo had met and developed a friendship with both Bunchy Carter and John Huggins. All three were full-time students at U.C.L.A. as part of a new U.C.L.A. enrollment program for 50 high potential black students. Carter and Huggins were leaders of Los Angeles' BPP. Over the course of October, November and December 1968, Bunchy started to draw Geronimo into the BPP and introduce him to L.A. and Oakland BPP leadership. This was the time



period for Geronimo's BPP orientation and inculcation. Pratt had no position or even influence in the BPP at that time.

In December 1968 there were three faces or sides to the L.A. BPP under Bunchy's leadership. They were political, military and "underground." The political tried to win the hearts and minds of the people; the military gathered a wide variety of weaponry and made fortifications for the "revolution" and battle against the police and the U.S. rival black organization; and the underground consisted of criminal armed robberies against businesses and banks to "liberate" money for personal and organizational use (in addition to the funds received by the very wealthy liberal white benefactors such as Jane Fonda and Jean Seberg).

Bunchy's underground operatives were drawn and selected only from those who he knew well over the years from the streets and gangs of Los Angeles. This was a secret operation entrusted to only those tested by the streets of L.A. These people had come up from the streets and gangs, and had graduated from street crime to armed robbery of businesses. Bunchy's underground did not rob individual people for a few dollars or credit cards. They robbed institutions, not individuals. And in the course of these robberies they did not use a distinctive, well-known BPP "party car." Bunchy kept the "underground" side separate from the political and military side. They were professional enough criminals in that they would use stolen cars to do their armed robberies.

Elmer Pratt was not a criminal of any kind at the time of the tennis court murder. The only trouble he had ever been in was in high school when he through a Coke bottle through a school window. He was a cat of a different stripe. He knew weapons and explosives and real military warfare. If Bunchy could indoctrinate Elmer into the BPP political philosophy, then he could use Pratt's military expertise and proven warfare combat mettle for the "revolution" and the BPP's military operations whenever those days would come. Bunchy had his own L.A. selected people to do his "underground" work. That was their know-how and experience. Pratt was a proven commodity in an entirely different but much needed sphere of the BPP operation - the military! Bunchy was intelligent. He knew that you don't cast pearls in with the swine. Besides the swine wouldn't trust anyone from the outside, especially rural, small town Louisianians, to participate in their criminal operations.

Those familiar with how the BPP worked in Los Angeles and who knew Elmer Pratt and Bunchy Carter in December 1968, fully understand that Elmer Pratt would not pull such a dumb and cruel stunt, as was done to the Olsens on the tennis court in Santa Monica. It was completely out of his character and there was absolutely no motivation for him to do such a dastardly deed even as a budding BPP member or as an individual.



All of Elmer's arrests were connected with BPP activities, not street crime. The first time Elmer was arrested in L.A. was on January 17, 1969 - the day Carter and Huggins were killed by the US Gang at U.C.L.A. Fifteen (15) of the 17 people arrested at the Huggins' home that day, including Pratt, were unarmed. Although all were arrested, the case was dismissed against everyone except Nathaniel Clark. The other L.A. arrests of Pratt were for possession of pipe bombs (April 1969); and for allegedly pointing a shotgun at a passing police car from inside the BPP headquarters building at 41st and Central in December 1969. When these arrests took place, Pratt had become the BPP Minister of Defense. He was clearly in charge of "military" operations. Street crime was and always has been an anathema to Elmer Pratt.

III. The Case Against Pratt

A. Julius Butler (JB)

In considering the credibility and veracity of JB's trial testimony, let's first understand its importance and context. Here's what Mr. Kalustian said about this: "Whether or not the jury believes that confession is a key issue in the case. If the jury believes Julius Butler, regardless of whether they believe or disbelieve the identification witnesses, Mr. Pratt is guilty. The case is over if they believe that" (p 1167). In his summation, Mr. Kalustian characterizes JB's testimony as "equally crucial" to the eyewitness testimony (p 14). Mr. Kalustian also told the court that "the jury must have at its disposal every fact which bears upon the worthiness of that confession; every fact which tends to show whether or not the confession is true; whether Elmer Pratt said those words." (p 1167). He added (p 1169) that "the jury is going to have to have every piece of evidence that is relevant and material at its disposal in determining the question of who to believe, Elmer Pratt or Julius Butler. To give them less would be to do them a disservice." In this regard Mr. Kalustian and I are in full accord.

Let's now review a few important elements of JB's testimony and compare that to what we know today. These are the kinds of facts which Mr. Kalustian meant the jury should have at its disposal. Had he known, I'm sure he would have turned them over to the defense, and agreed that the jury should know them as well.

1. JB as an informant

JB denied at the trial that he at any time since he resigned as a deputy sheriff in 1960 ever "worked for" any law enforcement agency including the FBI (p 390). He denies that he was ever an informant (p 1246) and said he was "never in the world a snitch" (p 1262) And



then JB's last words before the jury in response to defense attorney Cochran's last question to him "Did you ever inform on anybody?" Answer: "No." Question: "You never did that?" Answer: "No."

"No further questions." (p 1265).

We now know that he was an informant for the LAPD since 1966 and for the FBI since at least May 1969. See Exhibit # 1 for Capt. Henry's 1991 affidavit and for various FBI memos on their informant contacts with JB.

Capt. Henry in his affidavit and Sgt. Rice in my 1993 interview with him, both say that JB turned over weapons (automatic rifles and a Thompson submachine gun) to them months before he wrote the August 10, 1969 letter in which he first alleged that Pratt confessed the crime to him. (see Exhibit # 2). From the FBI memos we know that "as of June 5, 1969, "almost daily contact has been maintained" with JB and that he "is alert for any information concerning....specific plans by the BPP involving the captioned individual (Elmer Pratt) to commit bank robberies, and will furnish any positive information as soon as it is received."

On August 13, 1969 (three days after the delivery of the letter to Rice) JB told the FBI that "he had written a letter containing information relating to an involvement of BPP members in an affair that could put them in the gas chamber." On November 11, 1969, JB told the FBI after being "extensively" interviewed on 11/4/69 that he was "willing to provide information to the FBI on a confidential basis." On 12/10/69 JB told the FBI that "Elmer Pratt owned a Thompson machine gun.....and said Pratt also had a .45 caliber pistol." In the same 12/10/69 memo JB told the FBI that "many ex-panthers think Pratt uses the young Panthers to do his dirty work and avoids confrontations himself." This seems somewhat contradictory to Pratt's "confession" to JB that he committed the Santa Monica murder which anyone could call "dirty work." Why would Pratt do Santa Monica if he has young Panthers to do such dirty work? None of these FBI memos were known by the defense.

Then on 7/9/70 the FBI notes that "in view of Butler's continued cooperation with the FBI, he is being opened as a PRI-ghetto."

These are just a few of the many contacts JB had with the FBI from May 1969 until at least 3/17/72 (two months before Pratt's trial) when FBI agent Held asked his superiors to "reopen JB" to determine his potential as a ghetto informant" since "Butler has expressed his willingness to cooperate with the FBI in the confidential basis."

The above amply demonstrates that Butler was an informant for LAPD and the FBI long before his denial of this in June 1972.



2. JB's expulsion by Pratt from BPP

JB conceded at trial that after Elmer became head of the LABPP he (JB) "started to dislike him" (p 382). But he steadfastly maintained that he (JB) quit the BPP and was not expelled" (p 397); and that "I have never been disciplined by Mr. Pratt or anybody else" (p 397). Not only did JB tell the jury that he quit and Pratt did not expel him, but he twice told the jury that Pratt came and instructed him that he (JB) could not leave the party. "He (Pratt) would tell me that I had to come back in, I couldn't leave. The Party couldn't afford to let me leave alive; that they could straighten the whole mess up if they could get back in touch with me....they would alternate between trying to suggest that I come back...with threatening me" (pp 460 and 469).

We have five different FBI memos on Pratt and Butler that were never provided to Pratt's attorneys and clearly establish that Butler was expelled from the BPP by Pratt (see Exhibit # 3). On August 5, 1969 (five days before JB wrote and delivered the letter to Rice) an FBI wiretap picked up "G calling to inform him (probably Julius Butler) he had been expelled from the party and is expected to return party property." Then on August 13, 1969, Butler told the FBI that "he joined the BPP in the summer of 1968, and was an active member until he was expelled August 1969." On September 12, 1969 JB tells FBI again he was expelled. On April 8, 1970 JB told the FBI that "when he was expelled from the LABPP he was harassed about returning party property."

Although it has largely gone unnoticed until now, JB in his infamous 8/10/69 letter actually admitted that "First I was relieved of all duties and official working capacities." Remember at trial he said he had never been disciplined by Pratt or anyone else. Well, to be relieved of all duties seems to me to be a very extreme form of discipline. And the only one who had the authority to fire him was Pratt who, as we all know, was the leader of the LABPP at that time. To be fired is an extremely humiliating experience, regardless of the nature of the job and organization.

3. Delivery of the August 10, 1969 letter to Rice

JB told the jury that he gave the letter to Sgt. Rice while the two of them were in Rice's automobile which was parked two blocks from his house on a street called Potomac (p 1245). Rice testified that JB gave him the letter outside on the street in front of JB's house (p 1210). Not a word about any FBI involvement in this case was ever mentioned at trial either by Butler or Rice.

In November 1979, Sgt. Rice gave an affidavit describing the FBI's presence when JB gave the letter to Rice (see Exhibit # 4). Rice tells how Butler telephoned him and asked to meet him on the street



corner. As soon as JB gave Rice the letter, two FBI agents immediately came over to Rice and asked for the letter which JB had just given him. Rice refused. The FBI agents called to "Julio," but JB kept walking. Soon after this day, the FBI threatened to indict Rice for obstruction of justice for refusing to turn the letter over to them.

Rice did tell Deputy D.A. Kalustian (K) before the trial that the FBI was there. K's pretrial interview notes with Rice say "it all began when the FBI saw JB give letter to R. They asked for letter and R refused to give it. R told FBI they could get it by making official report from Dept. They didn't." K told the jury in the opening statement that "people had seen the letter pass from Julius Butler to Sergeant Rice. They asked that it be opened and Sgt. Rice said no."

It's interesting to note here that the only mention of the FBI during the entire trial was when a defense witness, Mr. Michael Pennywell, said he was visited by the FBI when he was in jail in 1971. As soon as he said this while under cross, Mr. K. immediately responded by saying sharply to him "the FBI's never been involved in this case and you know it." I beg to differ with Mr. K., and it will be developed in this memo, but the FBI was very much involved in this case - especially in eventually getting that letter from Rice in October 1970 through their informant, Julius Butler.

4. The FBI and JB's letter

Did those two FBI agents just happen to coincidentally be outside JB's house when he gave the letter to Rice? I think not. Let's not forget that as early as June 5, 1969 the FBI was in "daily contact" with JB and JB was willing to give them information about Pratt and the BPP's criminal activities. And only five days earlier the FBI knew that JB was expelled from the BPP by Pratt. To believe that the FBI just happened to pass by when their informant on Pratt and the BPP was passing a letter to someone on the street corner in broad daylight that would put Pratt in the gas chamber, I think, is preposterous.

Sgt. Rice is still angry about it today. He told me that he has no doubt that he was set up by both the FBI and JB, who were acting in concert to get Rice to serve as an unwitting vehicle for the FBI to "intercept" a smoking gun that would start the ball rolling to put Pratt in the gas chamber. But Rice foiled their plan and told the FBI to go through LAPD channels to get the letter.

Only three days later JB told the FBI that the letter contained information that could put BPP members in the gas chamber. FBI Agent Gardner testified at the Pratt federal writ hearing in January 1985 that he was the one who Butler told on August 13 about



the letter. Gardner also testified that he wanted that letter, and as a way to get it he went to Lt. Dwyer of LAPD Intelligence. He went to Dwyer because he had a close working relationship with him. He told Dwyer about the letter and that it was important to obtain it from the stubborn Rice. Whatever efforts Dwyer made to obtain the letter are unknown, and were obviously unsuccessful.

5. The October 1970 delivery of the letter

According to Rice in his November 1979 affidavit (see Exhibit # 4) and his 1993 interview with me, the FBI was instrumental in forcing Rice to give up the letter in October 1970. At this time Rice, a black LAPD officer, was being investigated for fighting with a white LAPD officer by the LAPD's Internal Affairs (IA). At the same time I.A. was investigating Rice over the "assault", the FBI came to him out of left field and demanded that he give them "the letter." When Rice asked how they knew it was a letter, they said JB told them. He remembers being interviewed by the FBI in the Parker Center Cafeteria. During this time Rice was working in Records and Identification (R and I) at the Parker Center. The FBI told Chief Davis's office that Rice had a letter they wanted, but he wouldn't turn it over. The Chief's people asked internal affairs to investigate. I.A. told Rice that "the government" wants a "letter" that he has and instructed him to turn it over because it was "LAPD property" since he received it while on duty.

Rice told both the FBI and LAPD that he will only turn it over if JB authorizes him. JB then called Rice and asked him to give the letter to the police authorities. When Rice told JB that he (Rice) had almost been fired over the letter and asked him why he told them about the letter, JB said that the FBI was putting pressure and "jamming" him. Rice was threatened by the LAPD to be prosecuted for withholding evidence about the commission of a felony. Ultimately Rice was suspended from duty for several weeks for "refusing to cooperate" in a criminal investigation.

6. The close cooperation between the FBI and LAPD on BPP matters

The FBI readily acknowledges that its contact with the LAPD was close and constant on matters relating to all black extremist groups, including the BPP. The FBI Task Force Report on Pratt issued around 1980 says the following:

"The task force interviewed the former Agent who supervised the squad responsible for the BPP and Pratt investigations in Los Angeles during those years. He stated that the FBI was in daily contact with the Intelligence Unit and the Criminal Conspiracy Section of the Los Angeles Police Department, conveying to them general investigatory information of interest to the police officials. In general, disseminations between the agencies were



oral because of the volume of information and the need to convey it quickly."

And the Church report on page 222 says that:

"The Los Angeles office is furnishing on a daily basis information to the Los Angeles County Sheriff's Office Intelligence Division and the Los Angeles Police Department Intelligence and Criminal Conspiracy Divisions concerning the activities of the black nationalist groups in the anticipation that such information might lead to the arrest of these militants."

We note that when FBI Agent Gardner was told by JB on August 13, 1969 about the letter and its content, he went immediately to Lt. Dwyer of LAPD Intelligence with whom he often spoke on a daily basis (p 317 of Pratt 1985 fed. writ hearing). Sgt. Ray Callihan of LAPD's CCS took investigative control of the Santa Monica murder from the S.M. police supposedly in October 1970 when the letter was opened and incriminated Pratt. Callihan was also the main CCS person responsible for liaison with the FBI, and exchanging information with the FBI about BPP, its members and their activities (see Callihan testimony at Pratt writ hearing).

Examples of this close working relationship between LAPD and FBI particular to Pratt and the FBI are as follows: On January 20, 1969, three days after Pratt and others were arrested at Huggins' house the day he and Carter were killed, the FBI agents photographed the guns and evidence taken from the Huggins' house and its BPP occupants that day. Callihan testified at Pratt's 1985 writ hearing (p 372) that on March 28, 1971, he interviewed Roger Lewis at the LA county jail with FBI Agent George Aikin about Lewis' knowledge concerning Pratt and the Santa Monica murder.

Sgt. Rice also told me that it was common knowledge among LAPD while he was working in R and I at Parker Center in 1970 that the FBI and LAPD had a very close working relationship. He said the FBI were always visiting the Parker Center. FBI Agent Wes Swearingen testified at Pratt's federal writ hearing as well about the LAPD and FBI close working relationship.

7. The FBI interest in Pratt from April 1969 through October 1970

On April 21, 1969 an FBI L.A. office memo indicates that it is recommending "Pratt's inclusion on the Security index." On May 7, 1969 the FBI contacted the Morgan City police department to ascertain Pratt's local criminal history. Another FBI L.A. memo dated January 28, 1970 seeks permission from FBI headquarters to institute an FBI Counterintelligence Program "designed to challenge the legitimacy of the authority exercised by Elmer Pratt." (see Exhibit # 5).



Then on June 26, 1970 the FBI L.A. office produced two documents regarding Pratt. One stated that since Pratt is not a good candidate for development as an informant due to his hatred of law enforcement, FBI consideration should be given for "utilization of counterintelligence measures with efforts being directed toward neutralizing Pratt as an effective BPP functionary." (see Exhibit # 6). The other 6/26/70 FBI memo was a 27 page report devoted exclusively to Pratt and his BPP activities and movements throughout the country as well as criminal charges outstanding against him at the time. And then, of course, we have the FBI in October 1970 again putting pressure on all concerned, Rice and his superiors at LAPD, to retrieve JB's letter that they knew contained information that could "put BPP members in the gas chamber," and was written by their informant, Julius Butler.

8. The Status of Pratt's Criminal Charges in October 1970

By October 1970 (when the letter was unsealed) Pratt was under indictment on several matters, all of which stemmed from BPP activities, not street crimes. On April 12, 1969 he was arrested in his car for the possession of several pipe bombs. Released on a \$10,000 bond soon after his arrest, he was still awaiting trial on these charges as of October 1970 (he was eventually convicted and given a 3-5 year sentence).

On May 5, 1969 Pratt was arrested (with four others including Julius Butler) for an ADW and false imprisonment of Ollie Taylor which occurred on April 23, 1969. Pratt was soon released on \$2,500 bail as was Butler on \$1,500 bail. Pratt was acquitted at his trial in March 1971. So, these charges were still hanging over his head in October 1970. Ray Callihan was the investigating officer for this case.

On December 8, 1969 Pratt was arrested at his home and charged with an ADW and conspiracy to commit assault and murder on a police officer. At the same time his cohorts in the BPP had the infamous shootout with the police from BPP headquarters at 41st and Central. Elmer was eventually convicted of conspiracy to possess illegal weapons and given a sentence of one to five years. This trial lasted from July to December 1971. While out on \$125,000 bail in the summer of 1970 Pratt became a fugitive on the above specified charges, and was finally arrested on December 8, 1970 in Dallas, Texas. Sgt. Callihan was the investigating officer in this case as well.

While in the LA County jail on the December 8, 1969 arrest, Pratt and several other BPP county jail inmates were charged with assaulting a correction officer on February 6, 1970. These charges were later dropped.



Thus, when Butler's letter was opened in October 1970, Mr. Pratt was a fugitive on the above specified charges. Upon the opening of the letter, Sgt. Callihan took the case of Mrs. Olsen's murder from the Santa Monica police in the latter part of October 1970 and put the case together against Pratt by Thanksgiving. The Grand Jury secretly indicted him for the murder of Mrs. Olsen in early December 1970.

9. The Criminal Status of Butler as of August 1969

Charged with four serious felonies in the kidnapping and assault of Ollie Taylor, much to the "shock" of his attorney (see Exhibit # 7), Butler entered a plea of nolo contendere to all four counts in September 1969. Butler did this without even consulting with his attorney. On September 19 he was given probation in exchange for his plea on these charges. Thus, we have the following sequence of events:

- August 5, 1969 - Pratt expels Butler from BPP.
- August 10, 1969 - Butler writes letter alleging that Pratt confessed to him the Santa Monica tennis court shooting and murder. This letter is then delivered to LAPD officer Sgt. Rice.
- September 19, 1969 - Butler, without any assistance from or notification to his attorney, pleads nolo contendere to four counts of assault, kidnapping, and false imprisonment of Ollie Taylor and is given probation.

This strongly smacks of a deal between Butler and the law enforcement authorities. A clear inference can be made that his reward (for being an informant against Pratt and for incriminating Pratt in his 8/10/69 letter) was leniency on his own serious criminal charges.

10. Did Butler intend that the letter and its contents be forever secret?

The central theme of D.A. Kalustian's persuasive argument to the Judge was that Butler intended that this letter never see the light of day until and unless he was killed. The letter's only purpose was to serve as an "insurance policy" to prevent his own death which he feared would be at the hands of Mr. Pratt and his fellow BPP officials. Kalustian even likened JB's letter to a dying declaration (p 1173). So, according to Mr. Kalustian's thinking, if JB did want the letter to be kept secret, it therefore demonstrated



that JB had absolutely no interest or motivation to falsely incriminate Pratt by manufacturing out of whole cloth a confession.

Mr. Kalustian said that Butler "considered....that the evidence would at all times be kept secret, that at no time, except upon his death, would the information be revealed." (p 1171)...Mr. K added that "at no time did he desire to go to the police with the information and that at all times he intended to keep it secret." (p 1173).

We now know that the real truth of the matter is just the opposite. Butler had no desire at all for the letter to be kept secret. Only three days after he wrote and delivered it to Sgt. Rice, he told the FBI what was in it, that it contained evidence that could put members of the BPP in the gas chamber. You don't have to be too bright to know that information of that nature would easily incite the FBI to lust after that letter, and to do all in its power to gain possession of it.

Although we may never be able to prove it, to me it is quite obvious that JB wrote and delivered the letter to Rice in the fashion that he did in concert with his handlers at the FBI. This patently artificial staging of the delivery to Rice is certainly characteristic of FBI Cointelpro tactics. The FBI knew that their informant, JB, had only days before been expelled by Pratt from the BPP and that Butler hated Pratt with a passion and deeply resented Pratt's leadership of him (Butler) at the BPP. Because of his expulsion JB was no longer on the inside of the BPP. Humiliated by Pratt, JB was all too willing to help the FBI destroy him. It was time to move and move quickly. Because of Butler's known animosity and hostility toward Pratt, a devious devise had to be created in order to give Butler's accusation an air of legitimacy. But things got messy when Rice wouldn't turn over the letter to the FBI on the spot.

As a result they decide to wait awhile. Pratt at this time in August 1969 had to face charges stemming from the Ollie Taylor beating (from which he was acquitted) and the possession of pipe bombs. Time was on their side. Wisdom dictated that they wait until another opportunity presents itself for them to reclaim the letter; and then, pursue the tennis court murder.

11. Butler's motivation to lie against Pratt

The following is distilled from 1993 interviews by me with eight former BPP members, men and women, who were close to both Butler and Pratt. Bunchy Carter was the undisputed, greatly revered leader of the LABPP. He was really irreplaceable. No one could fill his shoes. His death created a huge vacuum. Without a head, the arms and legs of the organization went in different directions. As head



of security for Southern California after Bunchy's death, Butler felt that he was the most qualified to succeed Bunchy. He was 36 years old, a former deputy sheriff, well-trained in weaponry, and felt he had more wisdom, knowledge and experience to assume the top position than anyone else, especially Geronimo Pratt.

Although close to Bunchy and serving as Bunchy's de facto aide-de-camp on military matters, Pratt had no authority or influence on LABPP organizational and personnel matters. He was thrust into the role as Bunchy's successor in the midst of great confusion because of Bunchy's death. Butler was jealous and envious of Pratt immediately just by virtue of Pratt being named to the position Butler coveted. It didn't help matters that Pratt was 21 years old (15 years younger than Butler) and new to the organization and was a complete outsider who was from rural Louisiana not urban Los Angeles, and had no established track record within the party in any area of operations.

Butler decided to run his own operation from the west side and defied any authority coming from Pratt and his inner circle of lieutenants. Butler felt that Pratt was incompetent and totally unqualified to lead. Butler considered his people to be far better qualified and trained to do the work of BPP. Pratt and Butler clashed time and again from the very beginning (April 1969) until things came to a head in August 1969. Early on in his tenure as leader Pratt relieved Butler of his job as director of BPP security for southern California and gave the job to a man named Omar. Butler's scope of operation was reduced from the entire area of southern California to only that of the west side of L.A. Butler saw Omar take his old job and even begin to travel across the country and coordinate with different BPP offices and with the national leadership, while he was left with his small squad of operatives out of his office on West Adams Blvd.

Finally, after numerous clashes over different incidents of confrontation between them and Butler's insistence on operating independent of Pratt, Pratt expelled Butler on August 5, 1969. Butler always considered himself "Mayor of Adams Boulevard." This expulsion by the young upstart outsider Pratt, humiliated him in front of his own men and the entire community where he had lived his whole life. Butler loathed Pratt. He was jealous, envious and resentful toward him. Even to this day some of Butler's former associates and squad members told me that Butler has an unnatural but deep seated hatred for Mr. Pratt. One told me that Julius would have killed Pratt if he could have because of his bitterness over Pratt's ascendancy and his own demise. Actually, that's exactly what Butler did. He killed Elmer by concocting that confession and falsely consigning him to prison for all these years.



12. Would it have made a difference if the jury knew Butler was an informant?

"The jury must have every piece of evidence that is relevant in determining who to believe, Elmer Pratt or Julius Butler. To give them less would be a disservice." Mr. K was right when he told the jury this (p 1169). I spoke with three jurors recently. Mr. Jesse Woods told me that "if I knew Butler was a snitch I would not have believed him. Snitches tell people just what they want to hear." Mr. Juan Santiago said "if we knew Butler was an informant it would have made a difference in not believing him." And juror Jeanne Hamilton reflected that "if we had known about Mr. Butler being an informant, it would have said to us that this is a conspiracy here. They're trying to nail him." All three would have voted not guilty if they had known about Butler's and the FBI's involvement with him.

Even Mr. Kalustian conceded that you cannot believe an informant who has a hostility towards the person against whom he is testifying. He said "with any witness where bias and prejudice are shown, where there is a tendency to show the witness is fabricating the story...you bring out the background of the two. You try to show the hostility and anger and the results of that hostility and anger, and what the natural consequences of that hostility and anger are - the natural consequences are to go to the police like an informant in a narcotics case, wronged by a defendant, goes to the police and says "Defendant sold me the drug. Defendant is a dealer...We view that with mistrust when that kind of thing comes in." "When you question the informant who testifies, you are also entitled to ask him, 'Isn't it a fact you gave information to the police, that you were motivated by desire to hang this defendant and you're dislike for him.'" (pp 445 and 446)

And then much later in the trial, Mr. K refers to this again by saying: "As I mentioned before to the Court we inquire totally of informants when we ask them, 'Wasn't it a fact, Mr. Informant, that when you went to the police with this information, you disliked the defendant, and that's what caused you to disclose this information, this lie about the defendant?'" (p 1175).

What Mr. Kalustian probably didn't know at the time, but which we all know now, was that Butler was an informant who hated Pratt and "that's what caused him to disclose this information, this lie about the defendant."

Butler hated Pratt. Pratt had just humiliated Butler by expelling him from the party. Butler was already an informant against Pratt for the FBI. Both Butler and his handlers wanted to destroy Pratt. And that's just what they did by concocting and staging the delivery of the letter with the smoking gun against Pratt. Not only



does this offer Butler a chance for sweet revenge, but it also enabled Butler to escape prison for the felony charges hanging over his head as a result of the Ollie Taylor assault and kidnapping. Butler was putty in the FBI hands.

13. Butler's "confession" testimony refuted by Pratt's alibi

a) Butler's "confession" story

Butler told the jury that Pratt came by JB's hair stylist shop on 12/18/68 with a man Pratt introduced to JB as "Tyrone." Pratt told Butler that they were going on a "mission," and if he didn't return, JB was to tell the BPP that something happened to him. Then, later that same night, Pratt returned to Butler and told him that he had shot some people in Santa Monica, but didn't know if he had killed them. Pratt added that he (Pratt) shot the people because Tyrone could not shoot people. Then, on the next day, December 19, Pratt once again returned to Butler at the BPP office at 7th and Venice. Butler showed Pratt the newspaper article of that morning (p 1 of the L.A. Times), and Pratt confirmed that that was the incident he was telling about the night before.

Mr. Pratt would not have gone to Butler like a ping pong ball first announcing he was going to do something, then returning hours later to tell him he had done it, then go back the very next day to confirm that he indeed had done what was in the newspaper. Based on interviews with former Pratt and Butler BPP associates, Pratt was not at all close to Butler in December 1968. Butler was then a 36 year old man and Pratt was only 21. Pratt and Bunchy had become close friends; and by the virtue of that friendship Pratt was well connected to the inner circles of the LABPP. Butler, on the other hand, was not at all close to Bunchy or any of the BPP key decision makers and/or persons of influence. It defies common sense and flies in the face of how the BPP operated under Bunchy's leadership to believe that Pratt would not only do such a crime, but go tell Butler what his plans were as well as his deeds.

b) Pratt's alibi

Pratt has claimed since the beginning that he was in Oakland when this crime took place. The jury heard testimony from several people that this was so, but that testimony was not clear and ringing, and not specific as to the critical date of December 18. In 1991 six more former BPP members from Oakland came forward and swore under penalty of perjury that Mr. Pratt was in Oakland at the time the crime was committed. These people, including Bobby Seale and David Hilliard who were actually running the entire BPP in December 1968, did not come forward to testify on behalf of Mr. Pratt because in January 1971, Pratt himself had been expelled by the party. Huey Newton refused to allow any members to assist Mr. Pratt at his



trial in June 1972. Pratt was persona non grata. (see Exhibit # 8).

These people remembered Pratt's visit to the week-long retreat in Oakland in mid-December 1968, and the fact that Mr. Pratt spoke up forcefully against hard drugs during the evening meetings on the two days of the Warren Wells trial testimony which took place that time in Oakland. Mr. Wells, a BPP member, admitted during his trial testimony that he had used heroin. This created turmoil and controversy among the BPP leadership and retreat attendees in Oakland then because of BPP policy against the use of hard drugs. San Francisco Chronicle newspaper articles clearly establish that Wells testified on December 17 and 18, 1968. Those in attendance at the evening BPP meetings (Seale, Hilliard, et al) in Oakland remember how forceful and articulate Mr. Pratt spoke about his anti-hard drug views. (see Exhibit # 8).

Each of the three jurors I spoke to told me that Mr. Pratt's alibi was weak at trial. Mr. Jesse Woods wondered "why more people didn't come down from Oakland and testify that Pratt was there if he was there." He felt that if they had come down and testified in a credible manner it could have swayed him to vote not guilty. Mr. Juan Santiago told me that "if more members came in and established his alibi in Oakland that would have counted and maybe turned it around." Mrs. Jeanne Hamilton told me that "Mr. Pratt's alibi witnesses were pretty weak...I remember thinking, 'Where are the others from Oakland, especially Bobby Seale?' If they had come it could have been a hung jury."

We know from FBI records that on the night of December 18, 1968 Bobby Seale did pick up some unidentified people and go to the home of Dr. Shapiro for a 7:30 p.m. meeting. We also know from FBI reports that "as of 12/20/68 an L.A. brother known as Geronimo arrived in Oakland." A reasonable interpretation of this report, not withstanding the convoluted English phrasing and mismatched tenses, is that Mr. Pratt was in Oakland at least "as of" December 20 (see Exhibit # 9).

Unfortunately, an FBI wiretap of the BPP headquarters on Central Ave. in Los Angeles for the time period from November 15 until December 20 is missing. Wes Swearingen, the former FBI agent who testified at Mr. Pratt's federal court hearing in 1985, testified that he personally checked for these records in 1976 or 1977 and much to his shock there wasn't a trace of these wiretap logs and tapes to be found. This was the only time in his FBI career that such wiretap records came up missing. If these records were not purposely destroyed and could be found today, there is a strong possibility that they would clearly document that Pratt was in Oakland Dec. 18 by virtue of his telephoning BPP L.A. headquarters from Oakland.



In his 1991 affidavit Mr. Swearingen also swore under penalty of perjury that he personally heard FBI agent Clea, who was assigned as Pratt's FBI agent, say that "the son of a bitch was in Oakland," clearly referring to Pratt (see Exhibit # 10).

Based on the declaration of two San Francisco private investigators, we have good reason to believe that not only was the FBI tapping the phone of the BPP in Oakland, but these records will reflect that Mr. Pratt was speaking from a BPP phone in Oakland about 5:30 p.m. on December 18, 1968. If these records can be located, they would exonerate Mr. Pratt by documenting his presence in Oakland when Mrs. Olsen was murdered (see Exhibit # 11).

The weight of this new evidence, in my view, and I believe in the view of any objective reviewer of fact, establishes that Mr. Pratt was indeed in Oakland during the time that Julius Butler says that Mr. Pratt was secretly confessing to him the shooting of the Olsens and during the time that Mrs. Olsen was actually murdered. Not only is Mr. Pratt completely innocent of this heinous crime, but Julius Butler knowingly lied and put an innocent man in prison for a lifetime.

B. The Eyewitness Identification Testimony

1. Physical Description

At trial two people, Mrs. Reed and Mr. Olsen, made a positive ID of Mr. Pratt as one of the two black men who did this crime. According to these two witnesses Mr. Pratt was the shorter of the two perpetrators. I'd like to discuss their testimony as it pertains to the more important description characteristics of the "Pratt" perpetrator.

a) Facial hair and the Polaroid photo

Mr. Pratt has always had a prominent mustache, one that is easily observed at even the most casual glance. Even Julius Butler testified that "I don't remember seeing Mr. Pratt without a beard and mustache." When Pratt was arrested January 17, 1969, he had an easily observable mustache, but he did not have a goatee or any facial hair on his chin.

Mr. Olsen testified at trial that he was "absolutely certain" that both men were clean shaven. Mrs. Reed told the Grand Jury in December 1970 that the shorter man was clean shaven (p 27). At trial in June 1972 she said she doesn't remember if the man had a mustache or a goatee. And at the June 1972 pretrial hearing she said "I think he was clean shaven but I could be mistaken." (p 93).



1) The Polaroid Photo

The two eyewitnesses described the shorter killer (the Pratt suspect) as clean shaven on that night. Mr. Olsen said he was "absolutely certain" of it. The defense tried to demonstrate to the jury that Geronimo had a very noticeable mustache and goatee close to that date (12/18/68) by introducing an undated Polaroid photo that clearly depicts Mr. Pratt with a mustache and goatee. His brother Charles, who was older than Geronimo and never affiliated with BPP in any way, testified that he remembers taking a Polaroid photo of Geronimo with his (Charles') four young boys in the bathroom of his (Charles') house around Christmas 1968, about December 27, 28 or 29. He places it at this time because his young son, Patrick, who Geronimo is holding in the photo was about 1 1/2 years old at the time.

Geronimo's sister, Imelda Granger, in whose home he resided a good deal of the time, also testified that she believes that photo was taken on December 27, 1968 at a party the family had at Charles' house after Christmas 1968.

In rebuttal, however, the prosecutor presented a Polaroid Corporation technician who was able to show by reference to a serial number on the back of the photo that the photo's film was not manufactured until May 1969. This was devastating to the defense case. The Latin phrase "falsus in uno, falsus in omnibus" (false in one thing, false in everything) particularly applies to this element of the defense whose effect was to infect the other parts of the defense, especially Mr. Pratt's alibi witnesses. Ultimately, the jury reached the conclusion that if Pratt's photo witnesses were wrong or had lied on his behalf, then, perhaps his alibi witnesses did so as well. As one juror, Jesse Woods, told me "when that Polaroid thing happened it makes you start thinking about other things." The jurors who lobbied for a "guilty" vote kept using this weakness in the defense case to drive home their point to those other jurors who still had reasonable doubt. Jeanne Hamilton, another juror, told me that she "was devastated by the photo. I still thought he was innocent but they (other jurors) kept saying to me that if he lied there, he could be lying in other areas."

In my mind two possibilities exist, either Charles and Imelda were honestly mistaken or they had lied about the date of the photo. In either case, all it really means is that Mr. Pratt could not prove by way of this photo that he had a mustache and goatee in late December 1968. In addition to the photo, 11 different witnesses essentially testified that as far as they can recall Mr. Pratt always had facial hair, a mustache and goatee. These witnesses were Julius Butler (p 367); Linda Redd, a young BPP member (p 520); Shirley Hewitt, an Oakland based BPP member p 572); Charles Pratt,



Geronimo's brother (p 940); Richard John, a member of Butler's security group (p 600); Lamar Lyons, a former student body president at UCLA who entered UCLA in the fall of 1968 as one of 50 high potential black students (p 907); Imelda Granger, Geronimo's sister (p 954); Michael Pennywell, a LA BPP member (p 981); Kathleen Cleaver, Eldrige Cleaver's wife who flew in from Algiers to testify (pp 1010 and 1026); Jacquelyn Wilcots an Oakland based BPP member who spent a lot of time with Geronimo when he visited Oakland in December 1968 (p 1194); and Geronimo himself (pp 1050-1052).

I find it very difficult to believe that all of these very different 11 people could or would come in and lie either on their own or at the behest of Mr. Pratt's very honorable and well respected lawyers, Johnny Cochran and Charles Holopeceter.

b) Scars

Mr. Pratt has two dents right at the spot on his forehead directly above the nose and immediately above the point between his two eyes. Mr. Olsen testified at trial that he was only two feet away from the killers on the well-lighted tennis court and looked directly into the Pratt figure's eyes but, "I did not notice any scars."

Mrs. Reed never mentioned these or any other scars when she gave her description to the police the day of the crime; when she helped the police artist develop a composite shortly after the crime; when she first made a photo ID of Pratt in November 1970 two years after the murder; nor at the Grand Jury hearing in December 1970. It wasn't until the June 2, 1972 pretrial hearing, some 3 1/2 years after the murder, that she first mentioned the scar. At this hearing she testified that "as I see Mr. Pratt now, I recall the scar he had above the bridge of his nose. Today I am positive I was drawn to that scar; and I, in my conversation with him, noticed, and I do remember more explicitly than ever the scar above his nose today." (pp 82 and 83). And at trial she told the jury that "I was face to face with the man, and what drew my attention to him, one prominent feature....was a scar on his forehead." (p 27). So, she goes from not even mentioning the scar in the first 3 1/2 years of discussion with the police to saying it was the scar that drew her attention to Mr. Pratt in the first place and now makes her positive that it was Mr. Pratt she saw that night.

c) Safari jacket

The photo of Pratt that Mrs. Reed and Mr. Olsen selected in November 1970 two years after the murder, depicted him in a light colored safari jacket. That particular photo was taken on December 8, 1969 in which he did have a goatee and mustache. Mrs. Reed, up



until seeing Mr. Pratt in that safari jacket in the photo array, had always described the shorter man as wearing a short zipper-type jacket she called an "Eisenhower" jacket; and the taller suspect wearing a "light tan or beige jacket with loops hanging down each side" (police report and Eckstein testimony p 915). Then at the trial she reverses herself and says that it was Pratt who was wearing a safari jacket which was hanging loose and open and had a loose belt and 2 upper and 2 lower pockets. This, of course, was the exact type jacket worn by Pratt in the photo array. In explaining away this change in jacket worn by the shorter man, she said that if on 12/19/68 she told Det. Eckstein that the Pratt suspect was wearing an Eisenhower-type jacket, then he "misunderstood" her.

d) Height

Six different people saw the shorter man suspect well enough to gauge his height. All six said that he was 5'8" to 5'11" tall. Mrs. Caroline Olsen before she died said he was 5'8" - 5'9". Mr. Olsen said he was 5'8" - 5'9". Mr. Robert Bryan said he was 5'8" - 5'9". Mr. Mitchell Lachman thought both men were between 5'8" and 5'11". Mr. Reed believes they were about the same height, although he never was asked to specify the height. And Mrs. Reed consistently told police for the 3 1/2 years before the trial that he was 5'8" - 5'9". But at trial she lowered his height to her own height of 5'6". Mr. Pratt himself is 5'6", too. She explained this change by saying that she now remembers that she and the Pratt suspect were "eye to eye."

e) Eyes

At trial Mr. Olsen and Mrs. Reed commented about Mr. Pratt's eyes. Mrs. Reed said that "he had very direct eyes, light complected eyes." (p 30). Mr. Olsen testified that "I think one of the most distinguishing thing about Mr. Pratt is his intensive eyes...they are very piercing and very penetrating." (p 179). Neither witness ever mentioned this "most distinguishing thing" in their description to the police throughout the 3 1/2 years leading up to the trial.

f) Nose and mouth

Mrs. Reed told the jury that the shorter man had "a small nose and small mouth...smaller than the average black person." (p 27). The composite that she helped the police artist draw depicted the Pratt suspect with large lips and nose. Mrs. Reed explained this contradiction by saying that she kept telling the artist that "his mouth was smaller and his nose was thinner." (p 104). She said she spent "an hour or more" with the artist trying to get the Pratt suspect's nose and mouth smaller. It seems to me that if she had



suggested these features to the artist, it would be very easy for the artist to make smaller lips and nose.

g) Widow's peak of head hair

Mrs. Reed also told the jury that the shorter man had a "widow's peak," a point in the front of the forehead "where the hairline came down to a point." (p 27). The composite which she developed with the artist doesn't have even a hint of "a widow's peak." In fact the hairline goes straight across the top of the forehead (see Exhibit # 12). When asked under cross why she never mentioned this characteristic to the Grand Jury, she said "no particular reason, I simply forgot." (p 105).

h) Age

Mr. Pratt had just turned 21 on September 13, 1968. On December 19, 1968, the day after the crime, Mrs. Reed told the police that both perpetrators were 23-29 years old. At trial she testified that the shorter man was 25 years old (p 55); and that the taller man was "quite young. I would presume 19, 20 years old." (p 52). She explained this difference in her estimate of the taller man's age by saying "Today he didn't look that old to me now in my mind." (p 83). The point here is that this is another instance which demonstrates Mrs. Reed's strong propensity to change her description of the two men from what she first told the police the day after the crime to what she "now remembers" three and one half years later with Mr. Pratt sitting directly in front of her in court.

i) Conclusion

The testimony of Mrs. Reed is one of the most blatant and shameful instances of an eyewitness filling in significant details and actually changing prior descriptions of a suspect to fit the defendant at trial that I have ever come across. Although never mentioned to the police when her memory was most clear days after the crime, Mrs. Reed now has the Pratt suspect at trial - 3 1/2 years after the crime - wearing a safari jacket and having the following physical characteristics:

- a noticeable scar on his forehead
- a reduction of height from 5'8" - 5'9" to 5'6"
- distinctive eyes
- a smaller than usual nose and mouth
- a distinctive head hairline

It is quite obvious, at least to me, that the police convinced both of these witnesses that Pratt was the killer, and then manipulated them into molding the suspect to fit Mr. Pratt, the "chosen one."



2. Photo and live lineups

We know that during the 3 1/2 years between the crime and the trial, there were at least 4 live lineups attended by Mrs. Reed and/or Mr. Olsen. The first of these lineups occurred on December 24, 1969. The second and third occurred in November 1970. The fourth happened on March 28, 1971. Interestingly enough, the police decided not to show or include Mr. Pratt in any of these or any other lineup that we are aware of. No legitimate investigation would have failed to conduct a lineup with Pratt in it.

Mr. Pratt first became a suspect in October 1970 when the Butler letter was opened. At that time Mr. Pratt was a fugitive from the other charges unrelated to Mrs. Olsen's murder. Mr. Pratt was arrested on December 8, 1970 and sat in the L.A. county jail for the next 1 1/2 years awaiting the Olsen murder trial. Only weeks prior to his arrest two live lineups had been conducted and one was conducted four months after his arrest (March 1971). The police decided not to present Mr. Pratt in a live lineup to either Mrs. Reed or Mr. Olsen. It seems logical that they did not do so because they knew they had weak eyewitnesses, and could not afford to jeopardize or destroy these eyewitness accounts by showing Pratt in a lineup and not having them pick him out.

a) The December 24, 1969 lineup

On December 19, 1969 Mr. Olsen went to Santa Monica police headquarters for a photo lineup. According to a December 22, 1969 Santa Monica police report (see Exhibit # 13), Mr. Olsen "identified Mr. Perkins and Mr. Vance as being suspects in the offense on 12/18/68...However, Mr. Olsen stated then he would like to see the suspects in a show-up so he could be more positive."

According to Mr. Perkin's attorney, Mr. Larry Rivetz, a well-respected public defender, Mr. Olsen positively identified Mr. Perkins at the show-up on December 24. In his August 23, 1972 affidavit (see Exhibit # 14) Mr. Olsen "filled out a form which he positively picked number four (Perkins) as one of the gunmen of December 18, 1969. Mr. Olsen stated at the time 'the voice did it,' a quote which I wrote at the time he stated it." Mr. Rivetz described Mr. Perkins as "5'5 1/2" tall, 130 lbs, medium dark complexion, wearing his hair in what can be termed as a short, natural, was clean shaven with no scars or tattoos visible." Further investigation by police, however, cleared Mr. Perkins because he was in jail on 12/18/68.

At Mr. Pratt's trial, however, both Det. Eckstein and Mr. Olsen hedged on whether or not he had made a positive ID of Mr. Perkins. Eckstein testified that "he said he thought he could be involved, but he wasn't that positive." (p 920). Mr. Olsen said at a June



1972 pretrial hearing that "I felt he was still a possibility when I saw him in person and I am fully aware that [redacted] was, you know, picking him out...and while it looked like it could possibly be the individual, I was not absolutely certain." (p 107). Then, under direct at trial two weeks later, he said, "I didn't feel really it was the person." (p 145).

It is interesting to note that the police apparently never showed the photos of Mr. Perkins to Mrs. Reed nor asked her to view him in the show-up.

b) Photo ID of Mr. Pratt

In November 1970, one year after Mr. Olsen had identified Mr. Perkins and two years after the crime, both Mr. Olsen and Mrs. Reed for the first time made a photo ID of Mr. Pratt from a photo array of 16 which was prepared by Sgts. Callihan and Buckles of LAPD CCS. They had taken over the case from Santa Monica at this point.

When Mr. Olsen selected Mr. Pratt's photo he cautioned the police that while "I felt that this definitely did look and appear photographically to be one of the assailants, and that while I didn't think I could make a positive identification from any photograph and had expressed this to the police department, I felt that that was a picture of the person." (p 147 of trial testimony).

The \$64,000 question, of course, is why didn't the police put Mr. Pratt in a show-up for Mr. Olsen, and for that matter, Mrs. Reed to view? Mr. Olsen told the police in no uncertain terms each time he made a photo ID (Perkins and Pratt) that he could not make a positive ID from a photograph. Instead of putting Mr. Pratt in a lineup, the police completely tainted any possibility of an honest ID by ushering Mr. Olsen into a courtroom in March 1972 to view Mr. Pratt while he was there for a hearing. Mr. Olsen also testified that Mr. Pratt never appeared in any lineup that he attended (p 174).

Mrs. Reed and Mr. Olsen made their first photo ID of Mr. Pratt separately. Then, even in that same month of November 1970, they both sat around the same table together in ADA Carroll's office when they made their second photo ID of Mr. Pratt. Mrs. Reed testified that while she and Mr. Olsen were viewing the photos, she picked Pratt and said "This is the man that was in my store." She wasn't sure if she or Mr. Olsen was the first one to select Mr. Pratt's photo (p 70).

c) Two show-ups in November 1970

Under direct examination, Sgt. Eckstein testified that there were two show-ups in November 1970. (p 924-926). Mrs. Reed testified that



the same day that she and Mr. Olsen selected Pratt's photo in Mr. Carroll's office they were both then transported to the L.A. county jail for a live lineup. She did not identify anyone. (p 93). Mr. Olsen was at the second lineup as well (p 94-96). Mr. Olsen testified under direct that he attended two lineups in November 1970, but was unable to identify anyone as the perpetrator at those lineups. (p 149). Mr. Olsen also remembers that he had met Mrs. Reed at the Parker Center for one of those two lineups in which they looked for the taller of the two suspects (p 148).

Throughout the trial there was no other mention or inquiry about these two November 1970 lineups.

d) The November 20, 1970 arrest and lineup of Tyrone Hutchinson

From the previous section we know that both Mrs. Reed and Mr. Olsen attended the lineup to see if they could ID "the taller man." Neither one was able to make an identification. At trial there was no mention of which suspect the police had in this lineup nor anything else about his arrest or the basis for it.

In preparation for the federal writ hearing of January 1985, the defense received in October 1984 (p 359 of fed. writ hearing) the case envelope on Tyrone Hutchinson's arrest and placement in a November 20, 1970 lineup. Sgt. Callihan's testimony at the federal writ hearing and the case envelope (see Exhibit # 15) indicate the following facts: Tyrone Hutchinson was arrested on November 20, 1970 on suspicion for murder of Caroline Olsen. The basis for his arrest was that he "was tentatively identified from a series of mug shots as a principle in the crime." (case envelope). Sgts. Callihan and Buckles arrested him based on a request by Sgt. Eckstein who apparently secured the "tentative" photo ID. To this day we have no idea which witness made this ID. There was not a hint of this particular photo ID mentioned at any Pratt pretrial hearing or trial itself.

When arrested Tyrone was 6'0" tall, 175 lbs, had a "bushy natural," was 19 years old and was a member of the local BPP. He was then placed in a lineup at 8 p.m. The case envelope has a notation "1-ID." Callihan testified that there was no identification, and that this notification which was written by Sgt. Buckles probably means that there was only one witness at the lineup (p 360). However, we know from Mr. Olsen's trial testimony that both he and Mrs. Reed were at the lineup. Nevertheless, ADA Carroll, who was also at the lineup, authorized Tyrone's release four days later on November 24 (p 366) by noting "that in the matter of William Tyrone Hutchinson currently under investigation. Strong evidence points to suspect's guilt in both charges, however undersigned feels that further investigation is necessary. Recommendation: further investigation to obtain ID."



Apparently not even Julius Butler was asked to ID Tyrone Hutchinson. Remember that part of JB's story to the jury was that Pratt came over to his shop with "Tyrone" and announced they were going out on a "mission," and then returned to him and announced that he, Pratt, did the shooting because "Tyrone" couldn't shoot people. Butler allegedly saw Tyrone, so therefore he would be a possible identification witness against him. However, there is no indication in the record at all that Butler was asked to or did in fact view a photo of or see Tyrone in a lineup. The tentative photo ID that supposedly led to Tyrone's arrest was conducted by Eckstein and he had no connection to Butler in anyway. And if Butler did not view Tyrone, why not? Was it because they knew his story was inherently phony, but needed it to get the case against Pratt rolling.

Mr. Kalustian at trial makes it very clear to the jury that Pratt's accomplice was a man named Tyrone. In his opening statement, Mr. K has Tyrone with Pratt each step of the way - at Butler's, at Mrs. Reed's shop and on the tennis court in Santa Monica robbing and shooting the Olsens. Mr. K also makes it clear that Tyrone is the taller of the two. Tyrone Hutchinson was a Black Panther working out of the 84th and Broadway office which was near his home. No one knows of any other Panther named Tyrone other than Hutchinson, and that is because there was no other Tyrone. "Tyrone" was just someone Butler decided to throw in for the story. It was a complete fabrication.

The only mention of Tyrone Hutchinson on the record was when Mr. Pratt under direct innocently testified that he never went anyplace with a man named Tyrone; that the only Tyrone he knew was a Tyrone Hutchinson who was a Black Panther who he met sometime in 1969 after he (Pratt) assumed a leadership position. Mr. Pratt nor his defense team had any knowledge that this very same Tyrone Hutchinson had been arrested as a suspect and put in a lineup.

e) The second November 1970 lineup

We have absolutely no information about this lineup. We do not know why it was conducted, and what suspects on what basis were placed in it. We do know from the testimony of Olsen and Reed that no ID's were made.

f) The March 28, 1971 lineup

Sgt. Callihan testified at the federal court hearing that on March 28, 1971 he and FBI agent Aiken interviewed Roger Lewis at the L.A. county jail (p 374-382). Lewis allegedly told Callihan that Pratt and Tyrone Hutchinson were the Santa Monica killers. Callihan then turns around and puts Lewis in a lineup "to see if he was, in fact,



one of the persons involved." (p 374). Callihan testifies that this was the first time he had ever met Lewis (p 375) and that if he put Lewis in a lineup he told Lewis he had a description that fit him as one of the killers. (p 375).

Again, I ask the question - why wasn't Mr. Pratt ever put in a lineup, especially when they put whatever suspects they had in a lineup soon after their arrest (Perkins, Vance, Tyrone Hutchinson and Roger Lewis)?

C. The car

The only witness able to give a detailed description of the car used by the two killers was Mitchell Lachman. This 30 year old man saw the killers run to the car, get in and speed away. He described the car as 1964-1968 dark or blood red with a white canvas convertible top. It had out-of-state license plates with white background. It was "very clean and very shiny" (police report), and was in immaculate shape like a brand new car, very clean." (p 204).

As described in an April 13, 1969 police report on the arrest of Mr. Pratt and Roger Lewis, Mr. Pratt's car was a 1967 Pontiac GTO, 2 door, convertible, white and red. It was registered in North Carolina whose license plates had a white background and red letters. It is a curious thing that the police knew the kind of car used by the Olsen killers and they knew what Mr. Pratt's car looked like, but they never really connected the two. I believe that Mr. Pratt's car was the car used by the Olsen killers, although Mr. Pratt had no knowledge that these men used his car for such a purpose.

At trial there was clear and uncontradicted testimony from no fewer than seven witnesses, including Julius Butler, the prosecution's chief witness, that many people associated with the BPP in Los Angeles had access to and used this car including Butler himself. Those witnesses are: Butler (p 372-3); Granger (p 953 and 963-4); Pennywell (p 980 and 982); Johns (p 599-600); Hewitt (p 595); Redd (p 527-28); and Geronimo also testified. Pennywell testified that Julius Butler used the car more than ten times that he was aware of (p 982). The 1967 Pontiac became a "Panther car" (i.e. available for use by any BPP member) soon after Mr. Pratt became involved with the BPP in the fall of 1968. The evidence regarding the car without doubt links the crime to BPP members or their associates, but it does not incriminate Geronimo any more than it does other people (including Butler and friends of Butler) who had access to the car. Geronimo had no idea who had used his car on December 18, 1968, because he was in Oakland on that date, having flown there earlier that week.

According to former BPP underground people, no BPP member closely



connected to Bunchy Carter would use a party car or his own car, especially one so distinctive as Pratt's, for an involvement in a crime of this nature. It was strictly forbidden by Carter, and a violation of this strict rule could result in death for that person.

Butler told the jury (p 360) as part of his story that Bunchy had told Pratt to get rid of the car because they all knew it had been made by a witness. Its description was, in fact, in the L.A. Times as part of its page one headline article on the crime on December 19. As anyone knows who knows anything about the BPP in December 1968 under Bunchy's leadership, when Bunchy told you to do something, especially something as important as getting rid of a hot car for a headlined murder, you did it, and you obeyed his orders immediately.

Another indication that Mr. Pratt was oblivious to the fact that his car had been used in the murder or any other such crime, was that there was no attempt to hide it, or get rid of it, or even to paint it. It was not painted until September 9, 1969 (p 1151). Throughout 1969 this car was widely known by the LAPD as a car used extensively throughout the city by the BPP. LAPD would spot this car and frequently stop its driver for no obvious reason.

It was stipulated at the time that Pratt purchased the 1967 Pontiac convertible in North Carolina on October 3, 1967 that he entered California on September 6, 1968; that he first made application for California registration on February 3, 1969; and on March 27, 1969 he was issued California license plates for the first time; and on April 8, 1970 Pratt sold the vehicle to an automobile dealer. (p 274). These are not the actions of a man who has just committed a murder on December 18, 1968 and knows the police have a detailed description of his car.

All three jurors that I spoke with told me that the jury agreed that anyone associated with the BPP could have driven the car. The fact that Mr. Pratt's car was most probably the car used by the killers was not an important incriminating factor against Mr. Pratt.

D. Gun

1. Firearms identification evidence

Mr. DeWayne Wolfer testified that the .45 caliber slug taken from Mrs. Olsen's body had different striation marks on it than did the slugs he test fired from the .45 caliber automatic gun which the police suspected was the murder weapon. This means that either this was not the murder weapon or else the barrel of this gun had been changed.



This deficiency in incriminating evidence was filled in by Julius Butler. Butler testified that "I asked about the weapon that was used and what he had done with it, and he told me he had destroyed the barrel." (p 358)...He said "he was cool" because "of the disposal of the gun barrel." (p 358-359). Butler also told the jury that Pratt "usually carried a .45 automatic." (p 359). Butler testified as well that Pratt told him that he (Pratt) "was the one that did the shooting, that shot the people because Tyrone couldn't shoot." (p 358).

How convenient for the police to get their informant, Butler, to fill in this glaring deficiency! I'd also like to point out two other facts. One is that the 2nd suspect also did the shooting because the police at the scene of the crime found two .38 caliber slugs. Also Mr. Olsen testified that one of the shooters, although he couldn't remember which one, had a snub-nosed .38 police revolver (p 150). So, this part of Butler's "confession" testimony is contradicted by the facts of the case.

Also, Mr. Pratt never "carried" a .45 caliber gun. Whenever he was arrested by the police he was always unarmed. When arrested outside the Huggins' house on January 17, 1969 he was unarmed. When arrested on April 1969 in his car for possession of pipe bombs, he was unarmed. When arrested at 5:30 a.m. while asleep in his house with his wife on December 8, 1969, the only weapon the police found was a 357 magnum, located under his bed. Mr. Pratt also testified that he had not carried a .45 since Vietnam. Again, the record refutes Butler's testimony.

Mr. Wolfer did testify, however, that "a positive comparison" was made between the ejector and firing pin marks on the test shells he fired from the same suspected murder weapon and those he observed on the .45 caliber shell casings he received from the crime scene. Therefore, Wolfer concluded that "this gun and no other gun is the murder weapon." (p 493). Mr. Wolfer's testimony went uncontested. No questions were asked of him by the defense.

At one point in the trial prior to Mr. Wolfer's testimony, the defense notified the court that its ballistics expert witness, Mr. W.W. Harper, just notified the defense that he cannot assist them because he had been instructed by his attorney not to participate in any matter in which Mr. Wolfer is a witness (p 304). The defense then announced that it had secured the services of another firearms expert, Mr. L.P. Miller, who was head of the Institute for Forensic Sciences in Oakland, California. At the end of Wolfer's testimony, Wolfer indicated that Mr. Miller examined the shell casing in his laboratory "yesterday" - the day before Wolfer testified. The defense did not question Wolfer, nor did they call Mr. Miller to testify. An assumption can be made that Mr. Miller also determined that a positive comparison existed between the test and murder



scene shell casing. I am in the process of establishing this one way or another with Mr. Miller. No detail of Wolfer's work was presented or asked of him. What does a "positive comparison" mean? This is so vague, and nothing was introduced or presented that supported it.

2. Firearm evidentiary chain of custody

The same day that Butler's letter was opened, October 20, 1970, Sgt. Buckles of LAPD CCS took the three .45 caliber shell casings found at the tennis court, the .45 caliber slug taken from Mrs. Olsen's abdomen, and a .45 caliber automatic gun to Mr. Wolfer of the LAPD Special Investigative Division commonly called the Crime Lab (pp 275 and 480). The slug and the shell casings were always in custody. They were gathered at the scene immediately. No problems there. But what puzzles me is - how and when did the police come to focus and/or find this particular gun as the most likely murder weapon, and thus have it ready for, along with the crime scene shells and slugs, Wolfer on the exact same day that Butler's letter is opened about two years after the crime? No explanation of this exists anywhere in the record.

We know that this particular gun was confiscated, along with a host of other weapons, from the raid on Huggins' house on January 17, 1969. Pratt and some 16 other people were arrested either inside or outside the premises. Three .45 automatic pistols were confiscated from inside the apartment. The "murder weapon" was one of them. Two other .45 automatic pistols were found on persons L. Campbell and Nathaniel Clark who were arrested outside the house with Mr. Pratt. Why did the police single out this particular .45 out of the total of 5 confiscated that day, and take only it to Wolfer not knowing if it or any other would "match?"

This particular weapon was in police custody for 22 months prior to Butler's letter being opened. Butler's letter gets opened naming Pratt as the Olsen killer. Immediately someone connects Pratt to the Huggins' house raid of two years earlier. "The gun" is one of three .45's in the Huggins apartment, yet they only take one of the three to Wolfer. Wolfer tests it and determines that the slug does not match. They have a major problem. So they get Butler to add a change of barrel to the "confession." Were any statements taken from Butler? If so, how do they evolve into his actual trial testimony? At what point did Butler incorporate his "get rid of the gun barrel" element into his confession story - before or after Wolfer's examination? Is this documented anywhere?

While the Santa Monica police had the case up until October 20, 1969, they had delivered the crime scene slugs and shell casings to Sgt. Warner of the LA sheriff's crime lab on January 29, 1969 (p 275). On this date Santa Monica police learned of a similar crime



in Van Nuys where several black suspects had used a .45 automatic and .38 revolver. The .45 was recovered. Det. Eckstein took this .45 and the ballistics evidence from the Olsen murder to Sgt. Warner of L.A. sheriff's department "to determine if they were fired from the same weapon." (Santa Monica police report). Always on the alert for any other .45's taken into police custody, Det. Eckstein also contacted both the L.A. county sheriff's crime lab and the LAPD ID Bureau to see if either agency had any .45 caliber automatics in their possession which could be connected to the Olsen killing (January 24, 1969 Santa Monica police report). Both agencies said they will notify Santa Monica police immediately if a .45 caliber automatic comes into their possession. Only God knows why Santa Monica wasn't notified by LAPD about the five .45's taken from the Huggin's house only one week earlier.

It's also interesting to note that the first thing Callihan and Buckles did upon opening Butler's letter was take all the ballistics evidence from the L.A. sheriff's department which had already done some comparative work on them for the Santa Monica police, and give this evidence to Wolfer. We'll see why, I think, in the later section that takes a closer look at Mr. Wolfer's professional credentials.

3. Disposal of the gun

If this particular .45 is the murder weapon (which I don't think it is), why wouldn't Pratt completely dispose of the whole thing, and not just a part of it? Certainly .45 caliber automatic handguns were in plentiful supply among the BPP members. Easy come, easy go. And if Bunchy Carter had known about this crime, as Butler in his testimony falsely insisted that he did, then a seasoned armed robber like Bunchy would have demanded that Pratt and his accomplice get rid of the guns; that they leave as few clues as possible that could link them to the crime - especially the "smoking gun" in a death penalty case.

4. What suspects used what guns?

Mrs. Reed told the jury that when the two men had returned to her shop and were trying to enter her locked front door, the "first thing she saw was a long gun protruding from the right hand of the tall man which he was holding at his side flat." (pp 24-25). She also said that this gun that the tall man was holding had a white or pearl or ivory color handle, one of the two." (p 81). Mr. Olsen testified that one man had a .45 automatic and the other had a "snub nosed .38 police revolver." (p 150); but he couldn't remember which man had what gun.

So, if the tall man had a long gun with a pearl handle, then this could not have been a "snub nosed" .38. This means that the tall



man had the .45 and the shorter man (the Pratt suspect) had the .38 snub nosed. Mrs. Olsen was killed with a .45, it was the tall man who shot and killed her, not the Pratt suspect. This further points out the falseness of Butler's testimony when he says "Tyrone" (the tall man) did no shooting. Also, the .45 that was used by the tall man had a white or pearl or ivory handle. The .45 which the police and Wolfer said is the murder weapon had a dark brown handle (viewed by this writer in the person of Deputy D.A. Mueller).

5. The connection of "the murder weapon" to Pratt

Assuming that this particular .45 is in fact the murder weapon, it is still not directly connected to Mr. Pratt. It was only one of many weapons found at a BPP leader's house which was frequented by many different BPP people, among them Mr. Pratt. It was found by the police lying on top of a table on which the TV was sitting in the living room on the 2nd floor by a window overlooking the driveway. Anyone, coming or going, could have taken the gun and then returned it at anytime.

6. A closer look at DeWayne Wolfer

McCloskey note: The following background profile is still somewhat rudimentary. Within the next several weeks I will receive hundreds of pages of documents that are now on order from several different sources which will enable me to develop a far more detailed and complete picture of the history of Mr. Wolfer's professional indiscretions prior to his work on Mr. Pratt's case.

a) Introduction

Mr. Wolfer's father was a respected career LAPD officer. DeWayne served in LAPD's crime lab since 1951 as a forensic criminalist. In April 1971 DeWayne was temporarily appointed Chief Forensic Chemist of the crime lab by the police department on April 1, 1971. Later that year he was named to the position permanently by the Civil Service Commission. Apparently Mr. Wolfer had good family connections with Chief Davis at the time. The Wolfer appointment to this post was highly charged and controversial. After the LAPD Board of Inquiry into Wolfer's competence, Chief Davis issued an October 20, 1971 press release giving Wolfer a clean bill of health as far as the LAPD was concerned.

b) Professional disgraces suffered by Wolfer

Wolfer's appointment to the LAPD crime lab's top position in 1971 was controversial because of Wolfer's notorious work in several cases, including the Sirhan-Sirhan and Kirschke cases.



1. The Kirschke case

Mr. Kirschke was a deputy DA in the L.A.D.A.'s office who in 1967 shot and killed his wife and her lover while they were having sex in bed. Mr. Wolfer was the criminalist in the LAPD's crime lab who examined the evidence and presented his findings at the trial in October 1967. In a post trial reexamination of Mr. Wolfer's work, another forensic scientist, Mr. William Harper* of Pasadena, determined that Mr. Wolfer had misrepresented demonstrative evidence of the identification of a fired bullet. As a result of this accusation the court (Judge George M. Dell) appointed two forensic firearm evidence examiners (David Burd and Alfred Biasolti) from the State of California Attorney General's crime laboratory to conduct a reexamination of the firearm evidence. Both Burd and Biasolti affirmed the accusation made by Harper.

Judge Dell who commissioned the reexamination of Wolfer's work and the Court of Appeal of California agreed as stated in the Court of Appeal's Kirschke opinion that "evidence produced at the hearing on the order to show cause established that the enlarged photograph of the test and murder bullets used by Wolfer to determine his opinion that the bullets were fired from the same gun do not do so." The opinion then stated "we conclude that....Wolfer negligently presented false demonstrative evidence in support of his ballistic testimony." (see Exhibit # 16).

This opinion went on to say about Wolfer's other forensic work in this case that "unquestionably, Wolfer's opinion testimony on acoustics and anatomy was negligently false. His testimony of his educational qualifications border on perjury and is, at least given with a reckless disregard for the truth."

Wolfer's acoustical testimony had theorized that the murder weapon may have been silenced with a towel or a lawn mower muffler in a fashion that would have prevented its discharge from being heard. His anatomy testimony was that a shift of body fluid after death could have so altered the center of gravity of the body as to cause it to roll off the bed.

2. The Sirhan-Sirhan case

A series of errors committed by Mr. Wolfer in his work on the Sirhan firearm evidence were identified by a panel of seven court appointed forensic firearm examiners in 1975. One of the seven was Mr. Lowell Bradford. Mr. Bradford was Director of the Laboratory of

*This is the same Harper who was retained by Pratt's lawyers but bowed out because his attorney didn't want him involved in any Wolfer cases.



Criminalistics for the Santa Clara D.A.'s office from 1947 to 1973 and received a Special Award in 1976 by the Association of Firearms and Tool Mark Examiners for his reexamination of Wolfer's firearm evidence work in the RFK case. Mr. Bradford characterizes Wolfer's work in the Sirhan case to me as "a complete lie." He also said that Wolfer's firearm work in general is "absolutely unreliable."

Mr. Bradford summarizes in a report to me the errors of Wolfer's work in the Sirhan case as follows:

The primary error concerned the identification of the bullet (Peo. Exhibit #47) removed from the neck of Robert E. Kennedy (RFK). Mr. Wolfer, based upon his examination and evaluation of the firearms evidence, testified at the trial-in-chief to the effect that this bullet was fired from the revolver that Sirhan used during the incident that caused the death of RFK.

The panel of seven Forensic Firearms Examiners found this to be erroneous.

There were a number of violations of correct forensic practice that were evident to the panel through the ten day period of examination and evaluation:

1. The fired bullets, both evidence bullets and Wolfer test bullets, had not been appropriately identified by engraving on the base of each.
2. Test bullets contained no pre-firing index marks at the 12 o'clock position.
3. None of the bullets contained any witness marks to indicate areas of identification, which are needed to reconstitute and verify stated identifications.
4. There were no laboratory notes made by Wolfer to document any of the procedures used nor of any test results and evaluations that he purportedly made. Consequently, reconstruction and verification of his work was not possible, therefore the necessity for a complete reexamination.

The panel made another discovery when it proceeded to remove the test fired bullets that were contained in an evidence security envelope completed by Wolfer following the recovery of bullets after purportedly test firing the Sirhan gun. The reference data on the outside of this sealed envelope detailed a serial number of the revolver that was used to test fire the bullets that were inside the envelope. These bullets were used by Wolfer, according to his testimony to identify Exhibit #47 by microscopic comparison. This serial number on the envelope was not the serial number of Sirhan's



revolver. It was later identified as a confiscated firearm that was used by Wolfer to fire powder pattern tests. This raised the question of whether or not these bullets were from the Sirhan gun, which would explain why the test fired bullets were so different from the evidence bullets in the appearance of microscopic identification characteristics, especially Exhibit #47.

No demonstrative exhibits in the form of photomicrographs of bullet comparisons were used in the trial-in-chief. However, a 4"x5" black and white photonegative was produced from the police files on this case which consisted of a comparison photomicrograph. It was labeled by Wolfer to indicate that it was a comparison of one of his test bullets with Exhibit #47 (from the neck of RFK). The panel of examiners found this to be false. The photograph was a comparison between Exhibit #47 and a bullet removed from another victim at the incident scene.

C. Forced resignations from professional associations and his professional reputation

Because of this grossly incompetent work and falsification of evidence and testimony, Mr. Wolfer was forced to resign from both the American Academy of Forensic Sciences and the California Association of Criminalists in the mid 1970's. Dr. Robert Joling, who presented the case against Mr. Wolfer to the executive committee which led to Wolfer's forced resignation from the American Academy of Forensic Sciences, told me that "Wolfer's testimony lacks credibility in the minds of most forensic scientists."

Mr. Lindberg Miller was the criminalist brought in by Pratt's defense team to review Wolfer's firearm examination work. We don't yet know the nature of Mr. Miller's work in the Pratt case. Mr. Miller worked for the LAPD as a criminalist for 12 years up until 1971, and thus came to know Mr. Wolfer's professional work well. He told me that he "wouldn't have any reservations that Wolfer would create evidence" in a case.

Jack Cadman was founder and director of the Orange County Sheriff's crime lab from 1948 until 1976. He told me that "Wolfer was a great source of concern to us (fellow criminalists)." As far as his ethics and professional competence, Mr. Cadman told me that his office had a sign that read "we don't give a damn how they did it in L.A." Mr. Cadman said to me that "we didn't like their methods."

d. Conclusion

There are a lot of good reasons to question whether this .45 automatic handgun confiscated at Huggins' apartment in January 1969, and apparently not even considered as the possible murder



weapon until October 1970 is the gun that was used to kill Mrs. Olsen. Wolfer's ballistics work in the Kirschke and Sirhan case in the late 1960's has been totally discredited. In both cases he testified that based on his test firing evidence compared with crime scene evidence, the gun connected to the defendant is the murder weapon. This is what he did and said in the Pratt case, too.

We know that all of the Pratt firearm evidence still exists. We should do all in our power to reexamine Wolfer's work in the Pratt case. Such reexamination was done in both the Sirhan and Kirschke cases with the same results - Wolfer's opinion evidence was wrong and he had given false testimony. God only knows how many other cases are out there in which Wolfer did the same thing, possibly including Pratt's.

Given Wolfer's sordid record for mistakes and falsehoods, it would not surprise me in the least if he falsified his test comparison on the shell casings given to him from the murder scene by creating a new set of shell casings and throwing out the ones given to him. Those professionals who reexamined his work in the aforementioned cases and worked with him in the LAPD crime lab suggest that he is certainly capable of such outrageous conduct.

IV. The Real Killers - Herbert Swilley and Larry ("Dobey") Hatter (S&H)

A. Tyrone Hutchinson

Tyrone Hutchinson has come forward in recent years and given an affidavit wherein he recounts how he received a confession along with several other friends from two of their close neighborhood boyhood friends who told them that they shot a man and woman on a tennis court in Santa Monica (see Exhibit # 17). The two young men who confessed to this crime were Herbert Swilley and Larry "Dobey" Hatter. They made the confession at the 84th and Broadway BPP office where they and their friends to whom they confessed visited as BPP associates.

Tyrone's 1991 affidavit was not the first time he had told someone what he knew. When he was arrested and put in the November 20, 1970 lineup by Callihan and Buckles, he told them that Swilley and Hatter had confessed to being present when a man and woman were shot on a tennis court in Santa Monica. Neither of the two would say who did the shooting. This was in response to the police asking what he knew about a robbery murder on a tennis court in Santa Monica and telling him (Tyrone) that he was named as a participant in the killing; and that's why he was arrested. Tyrone even named three other men who were present when Swilley and Hatter made the confession. Tyrone told them (police) that he has known both



Swilley and Hatter from childhood and they were associates with Julius Butler.

As he told them what he knew, the police were taking notes. When he finished the police warned him not to discuss this with anyone "if

I knew what was good for me." This was not what Callihan wanted to hear. Callihan did not pursue the S & H leads because he already had his case built against the notorious BPP leader, Pratt, and was now looking for the second, taller suspect. New and different suspects were obliterated by his blind focus on Pratt. Tyrone was sufficiently shaken by this experience (arrest for murder, insertion in a lineup and threat to keep his mouth shut), that he decided to do just that - stay silent on the subject. He remained silent until visited in prison in 1991 by Bob Bloom who came to discuss the 1970 lineup. It was during this 1991 visit that Tyrone dared to tell someone connected to the criminal justice system what he knew about Swilley and Hatter.

It is the opinion of this writer that when the police in their report on Tyrone's arrest characterized him as "uncooperative," this was a deliberate misstatement for the purpose of burying what Tyrone had told them about Swilley and Hatter.

B. C.M.'s investigation of Swilley and Hatter as the possible killer of Mrs. Olsen

My investigation on this matter is continuing. To date I have interviewed eight people who grew up with and knew both Swilley and Hatter quite well. All of them grew up within blocks of the BPP office at 84th and Broadway, and all 10 (including Swilley and Hatter) were associated to one degree or another with the BPP in December 1968. I also interviewed five other members of the LABPP, including its leadership, who knew Swilley and Hatter as well, especially Swilley. In addition to these interviews, I've collected quite a bit of documentation on Swilley and Hatter. This section of the memo distills from the above material what I have been able to learn about the two men.

C. S & H's other confessions

The other three young men and fellow "homeboys" of S & H to whom they confessed along with Tyrone were Harold Taylor, Thomas Holloway, and William Hankins. Holloway is dead. I have located but have not yet been able to talk with Taylor or Hankins. Tyrone told his brother Dwight what S & H told him and the others. According to my interview with Dwight Hutchinson, he told me that he then spoke directly to S & H. Dwight told S & H that he had heard they had pulled a gun on some people at a tennis court in Santa Monica. Dwight then added that they should not have done it because by



doing so they went against and broke BPP rules and made the BPP look bad. Instead of denying that they did it, S & H replied to Dwight that "we've got to get dollars somehow."

Tom Holloway also told Dwight that "those fools (S & H) went up to Santa Monica. Holloway not only told Dwight that S & H did it, but told him that S & H wanted him (Holloway) "to go with them to liberate some money." It's also interesting to note that Hatter's former common-law wife of 10 years (from 1968 until 1978) told me that "if he (Hatter) ever told me about that (Santa Monica) I don't remember." Not exactly a ringing denial.

D. The deaths of S & H

Herbert Swilley was shot to death on January 9, 1972 over a gambling game near his home only a 1/2 block from 84th and Broadway. One count of 187 P.C. was filed against his killer, David Earl Woods, on February 14, 1972 by D.D.A. Mueller. Larry Hatter was killed on July 19, 1978 and found dead on the Pacific Tennis Court in Santa Monica by employees arriving for work at 7:30 a.m. Apparently an object accidentally penetrated his skull at some point in entering or leaving the premises for a robbery at 1955 Broadway in Santa Monica. Lest you think I am trying to put the Olsen murder on dead men, please consider this: It is common that people who do the type of street crime/murder that was done to the Olsens usually wind up in one of two places - prison or dead, especially 25 years after the crime. All I am doing is following the investigative trail, wherever it leads. And in this case it may very well lead to two dead men.

E. How do S & H compare to the physical descriptions given by the eyewitnesses?

a) Herbert Swilley was 18 years old (DOB November 19, 1950) on December 18, 1968. According to the coroner's report he was 5'7" tall and weighed 139 lbs. when he was killed in January 1972, three years after Mrs. Olsen's murder. A police report I have indicates that on December 10, 1968 he was 5'6" and 136 lbs. All of his friends describe him as an extremely neat and clean person who took great pride in his appearance. He was a nice dresser who almost always wore well pressed slacks and clothes. One said he was a "neat freak." His hair was cut short and he was clean shaven. His skin was light to medium brown. Of the two, Swilley and Hatter, Swilley would be the "Pratt suspect" - the shorter one. Swilley and Pratt are the same height, have the same skin complexion, the same short hair, and similar builds. Pratt was 21 years old and Swilley was 18. A police report indicates that on January 19, 1969 Pratt was 5'7" and 156 lbs.

Mr. Olsen at a pre-trial hearing in June 1972 (p 119) described the



shorter man as being clean shaven, nicely dressed, wearing slacks and a nice shirt and having short hair - a short natural, not a crew cut. This fits Swilley perfectly. Olsen also said he was 5'8" - 5'9" and about 150 lbs. This misses both Swilley and Pratt by one or two inches. Mrs. Reed also described the shorter man on December 19, 1968 as clean looking, medium light complexion, with a very trim haircut, medium weight of 145-150 lbs and about 5'8." Swilley, as does Pratt with whom he shares these basic physical characteristics, fits the description given by both witnesses.

b) Larry Hatter

A police report indicates that in June 1969 Hatter was 6'0" and 140 lbs. His July 1978 coroners report describes him as 5'11" and 157 lbs. His friends universally describe him as having a tall, thin slender build; a light brown complexion whose skin was lighter than Swilley's; a natural that was clearly larger than Swilley's; clean shaven and a nice dresser. Their friends comment that Swilley, Hatter and the rest of the BPP people from 84th and Broadway in their group were called the "Hollywood Panthers" because they dressed nicely. In December 1968 Hatter was almost 18 years old (DOB 3/23/51).

Mr. Olsen testified at the trial (pg 164-165) that the taller man was "5'10" to 6'0" tall; was tall, slender, he had more hair, lankier build." He also "had a rather long face." They were both "clean shaven..., wearing slacks...and looked very well groomed." This is a near perfect description of Mr. Hatter.

Mrs Reed told the police on December 19, 1968 that the taller one was "23-29 years old, 6'0", thin build, about 155 lbs, medium complexion, very clean looking, narrow shoulders and hips." Other than the age this is almost a perfect fit to Mr. Hatter. At trial Mrs. Reed changed her estimate of the age of the taller suspect. She told the jury under cross that he was "quite young; I would presume 19 or 20 years old." (p51). She also told the jury that the taller one "had a higher type haircut, a natural, his natural was sort of high on top of his head; was quite thin, possibly 155 to 160 lbs; had a very thin, small goatee, and a Roman-type nose." (p 49-50). This is very close, if not a dead ringer for Mr. Hatter.

The only difference between Swilley and Hatter in reality and what the eye witnesses said were their relative skin complexions. Their friends say that although both were light to medium brown, Swilley had darker skin than Hatter. The witnesses say both were light to medium but the taller one (Hatter) was darker than the shorter one (Swilley.)

No matter how you cut it, in my view, it is quite remarkable how close the absolute and relative descriptions of Swilley and Hatter



fit those given by the two eyewitnesses. I have seen photos of both Swilley and Hatter. There is a distinct similarity between them and their respective police composites drawn the day after the crime aided by both Mrs. Reed and Mr. Olsen. The one feature that is particularly noticeable by comparing their photos to the composite is the shape of the face of the taller suspect. Hatter's face is long and angular just like the taller suspect's face in the composite.

F. Swilley and Hatter's criminality and character

According to their friends and neighbors both Swilley and Hatter were junkies who robbed for drugs. This applies particularly to Swilley. As one good friend of Swilley's told me, "Herbert was about nothing but drugs." This same person also told me he personally witnessed Swilley physically attack his own mother, break his girlfriend's nose, and almost drown his sister in the bathtub one day when he was on a rampage for money for drugs. Hatter's autopsy report notes that "the right forearm and antecubital fossa reveals 3 inch to 4 inch linear needle track type scars. The left antecubital fossa and forearm also reveals similar 1 1/2 inch to 3 1/2 inch long linear needle track scars and ...consistent old needle tracks, scars on forearms." Swilley's autopsy report also describes, but in less detail the fact that "there are old scars noted in the antecubital fossas of both arms." This description of S & H fits with the street crime nature of the Olsen robbery and murder but not with the character of Geronimo Pratt.

Each of the eight friends of S & H told me that the Santa Monica robbery/murder fit the character of both S & H, and was certainly within their capacity, especially if they were high on drugs. Swilley, in particular, was a legend in the 84th and Broadway neighborhood for being an extremely bold and dangerous and violent killer, especially when on drugs or in frantic search for them. One friend told me that he personally witnessed an incident when they were both 15 years old (circa 1965) in which for no reason Swilley told a friend who was admiring Swilley's knife to hold out his arm, whereupon Swilley slashed his friend's arm with the knife and "laid it open from elbow to wrist." The name of the "friend" of Swilley's who was slashed was "Mark Rat."

Several of Swilley's neighborhood buddies told me that Swilley's "main thing" was to go about the city, and rob and kill low level drug dealers. In one instance that they recounted, the victim was a former friend of theirs who moved out of the neighborhood to another part of the city to conduct his drug business. His name was "Peanuts." It's well accepted as a fact on the "street" that Swilley killed "Peanuts" and his wife by slashing their throats, and then apparently setting their house on fire after he robbed them of



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their drug money. Swilley also apparently shot "Mark Rat's" father at 81st and Flower when he went to their house to rob them of their drug money. One friend believes that Herbert murdered his own drug addicted father whom he loathed, and whose funeral Herbert did not attend.

A key leader of the L.A. BPP at that time, who was not from the 84th and Broadway neighborhood, but who would go to the BPP office at 84th and Broadway often, told me of the time Swilley amateurishly tried to shoot him in the back with a shotgun for some unknown reason. As this BPP leader was walking toward the BPP office, another BPP member who was also not from the neighborhood and had come with this leader that day, wrestled Swilley to the ground just as Swilley took aim at the BPP's leader's back. This same BPP leader told me that Herbert was a "killer" who was a "loose cannon" and a "renegade" who would never listen to anyone. He said that "you just couldn't talk to Herbert."

Another friend of both Swilley and Hatter characterizes them as "common criminals." Although their rap sheets primarily consist of burglaries and grand theft, there is a harsh reality of undetected violence that belies their officially documented criminal record.

G. Captain Franco's murder

Franco Diggs was a 40 year old BPP member in Los Angeles. Prior to his murder on December 19, 1968, the day after the tennis court shooting, he was a captain in the BPP in charge of Bunchy's underground. Captain Franco was a trusted aide of Bunchy Carter. Four people testified at Geronimo's trial that the day Mr. Pratt left for Oakland, which was about the 14 or 15th of December 1968, Capt. Franco drove him to the airport in Pratt's 1967 GTO Pontiac white over red convertible.

Linda Redd testified that Franco and Pratt stopped by the BPP office at 84th and Broadway on the way to the airport (p 524). Imelda Granger, Pratt's sister, told the jury that Franco and Geronimo came by her house on the way to the airport so Geronimo could pick up some personal effects for the trip (p 958). Michael Pennywell also testified that Pratt and Franco came by his place of employment that day (p 983). Geronimo testified that Franco drove him to the airport that day, and that they first stopped at "Bunchy's pad." Bunchy told him to go over to Pennywells and get \$25 because when he got to San Francisco he'd need cab money to get to the S.F. BPP office. Pennywell was the L.A. BPP treasurer. Pratt then confirmed that on the way to the airport he and Franco stopped by his sister's house and the BPP office at 84th and Broadway (pp 1058-1059).

This testimony, of course, helps to establish Pratt's alibi, if



believed by the jury. But the fact that Franco was the one who drove him in his BPP party car to the airport that day meant nothing to anyone and was really very innocent testimony by all four people. However, in 1993 it takes on a greater significance. It means that Franco, after dropping Pratt off at the airport, naturally had possession of and therefore responsibility for the car and its use. Capt. Franco was a seasoned BPP associate of Bunchy Carter, and very much involved in the BPP's secret underground criminal activities. He knew full well that it was a code of Bunchy's, and therefore the BPP, that no party car must ever be used in any criminal activity, especially one that could lead to the gas chamber. Franco also knew that if it were under his watch, when he had the car, then Bunchy would hold him accountable for such a massive screw-up, and it would be his head on the chopping block. This was told to me by a very senior L.A. BPP leader at the time who also was one of Bunchy's most senior trusted aides very active in the underground operations.

During my five hour visit with Tyrone Hutchinson at Corcoran State Prison last month, I asked Tyrone if as far as he personally knows, did Swilley and Franco know each other. He then told me the following. The first time he ever met Franco was when Swilley took him (Tyrone) over to Franco's house about a week before Franco's death. Then, Swilley took Tyrone over to Franco's house a second time that week. Swilley told Tyrone to stay in the car. Swilley went up to Franco's house and beat on the door until Franco finally opened it up. Swilley disappeared inside but a loud argument ensued that Tyrone could hear from the outside. Tyrone does not know what the argument was about. Then, Tyrone went by Franco's house one or two days before his death, and said that it was all shot up. Franco was not there.

Prior to meeting Franco, Tyrone told me he used to see Swilley and Franco together on a number of occasions. Once he saw them smoking pot on 75th St. between Main and San Pedro. Tyrone also remembers seeing Herbert driving "the goat." This was the BPP's nickname for Pratt's Pontiac which also served as the "party car."

Anyway, as Bunchy's former top aide told me, Franco and Swilley were both "killers." If Franco let Swilley use "the goat," and Swilley made the dumb mistake and used it for the Santa Monica murder, then it was up to Franco to somehow take care of the problem. As the aide told me, if this is what happened (Franco gave the car to Swilley), then it was simply a matter of "who was going to kill the other." Because, if Bunchy ever got wind that the goat was used in a crime of this nature, then they'd both be dead men.

What we do know is this. Franco was found dead lying on his back on a dirt strip between the pavement and a fenced business near 155th St. and Main. He had been shot three times, once in the back of his



head, once in the neck under his right ear, and once in the left cheek of his face (Franco's coroner's report). The coroner's report indicates he was shot with a "poss 32 cal or 9 mm." He knew his killers. He would never let a stranger get that close to him. By all accounts Franco was a very cautious and suspicious man. His murder was never solved nor was it actively investigated.

His January 2, 1969 funeral was a grand BPP event. Even Kathleen Cleaver came down from Oakland to attend it (p 1001).

The intriguing question remains - since Franco was killed within 24 hours of the Santa Monica shooting, was his death related to the use of the BPP "goat" car in the shooting of Mrs. Olsen, given the above related Swilley circumstances? It is a fact that Mrs. Olsen's shooting was a page one headline of the December 19, 1968 L.A. Times. And this article described the car used by the shooter; and the car matched the description of "the goat" car.

H. Herbert Swilley and Julius Butler

In Tyrone Hutchinson's 1991 affidavit he says "I had known these two men (S & H) since childhood. I knew them both to be friends and associates of Julius Butler at the time I heard them discussing the tennis court incident." Tyrone also told me that he remembers Herbert telling him in the backyard of Harold Taylor's house that he thought Butler was "a good guy." This was sometime prior to Franco's death. Tyrone also remembers seeing Butler and Swilley talking with each other at the Black Congress building, again, sometime before Franco's murder.

Butler conceded under cross at trial (p 425) that as the BPP person in charge of "security" after Bunchy's death, he had his own "underground" group. He also admitted that even the BPP members didn't know the names of the people in his underground. One of the BPP leaders I spoke to told me Bunchy called Butler's group the "mystical underground" because even Bunchy wasn't sure who they were and what they were doing. At trial Butler refused to reveal the names of any members of his own "underground" (pp 418-425). The strong likelihood exists that Swilley and Hatter were part of this secret group, and he knew that they had done this crime in Santa Monica. That would really be dangerous and open a can of worms if he divulged their names. A fundamentally key question to be asked is: how did Butler even know of the Santa Monica murder when he used it in his August 10, 1969 letter, some 10 months after the murder occurred? A reasonable answer is that he learned about it from his "underground" person, Herbert Swilley, who reported the crime immediately to his boss, Butler. Then being aware of what happened in Santa Monica from Swilley the night before, he read about it the next day on page 1 of the L.A. Times.



In fact, another former Panther has reported that about the time of Franco's murder, he entered Butler's west side BPP office and heard Butler ranting in the office. When this former Panther asked Butler's secretary what was the problem, she told him that "Butler was yelling that he wanted his .38 caliber gun back because he was afraid it had been used for something."

So, when Pratt expelled him from the BPP, it is very possible that he decided to help the FBI frame Pratt by using the Santa Monica murder as the vehicle.

V. A Mark of Innocence

Pratt's outburst during the reading of the jury's verdict

On Friday, July 28, 1972 at 10:30 a.m., as soon as the clerk read the jury's first verdict of guilty for the first count of murder, Mr. Pratt interrupted and exclaimed "Guilty! You're wrong. I didn't kill that woman." Then, before the other verdicts of guilty were read by the clerk, Mr. Pratt said to the Judge, "Your honor, can I be excused? Your honor, I am not going to sit here and listen to that, me being framed by something I didn't do." (pp 1330-1331). He was then excused by the Judge, and consequently was not present when the verdict of guilty was read for the other counts in the indictment.

At this point in the memo, I want to point out a characteristic seen over the last 13 years of working on behalf of the convicted innocent. Outbursts of this nature are common among those 12 men and women we have freed and exonerated in the past 10 years. We often read them in the transcripts of those who have just been judged guilty or are about to be sentenced for a murder they did not do. Among others, Clarence Chance is an example of this phenomenon. Right after the judge sentenced him to life for a murder he didn't do, Mr. Chance blurted out to the judge that "I was in jail when it happened. I was in the new county jail...So these people can know I didn't kill their brother." (p 1495).

I tell you here and now that this is a "mark of innocence" in my experience and opinion. And I say this as one who has spent the last 13 years devoted to assessing and investigating claims of innocence by those who say they are falsely imprisoned, and were later exonerated.

VI Three of Pratt's jurors now believe in his innocence

All three jurors I spoke to, without any prompting by me, expressed very strongly that had they known during deliberation what they



know today, they would firmly vote "not guilty." Jesse Woods told me "if I had to do it over again, I'd have voted not guilty; if I knew Butler was a snitch then I would not have believed him - snitches tell people just what they want to hear." Juan Santiago told me in clear and certain terms that "I think Pratt was framed. As I look back, I think the prosecutor manipulated us and took us for a ride. If I knew Butler was an informant, it would have made a difference in not believing him." Then later in the conversation he said again, "I believe he was framed. They thought he was a threat to the law; if you get rid of the head, the rest will fall. This is my feeling now. Something wasn't fair about it. You don't want to be part of something wrong."

Jeanne Hamilton said to me that "Butler seemed fairly credible. He seemed straight-forward. I felt like his testimony alone was not enough. However, if I had known about his FBI informant status, it would have said to me that there is a conspiracy here. They're trying to nail him." And then later in my visit to her she said, "It never even crossed my mind that the FBI was involved in this at all. The FBI was never mentioned during jury deliberations. As far as we were concerned the FBI didn't exist as far as this case was concerned. The FBI involvement tells me there was a conspiracy to dismantle the BPP."

VII Conclusion

I am convinced beyond a shadow of a doubt that Elmer Pratt had nothing whatsoever to do with the robbery and murder of Mrs. Caroline Olsen. Mr. Pratt in no way, shape, or form either planned, executed, or tried to cover up the doing of this terrible crime. I say this in summary for the following major reasons:

Julio Butler is a complete liar. He manufactured out of whole cloth the entire Pratt "confession." He did it with malice because he deeply hated and resented Elmer Pratt. He loathed Pratt because Pratt assumed the mantle of LABPP leadership that he felt belonged to him; and because Pratt humiliated him by first stripping him of all duties, and then expelling him from the BPP.

Pratt was in Oakland when this crime occurred which was when Butler said Pratt confessed to him. Butler denied he was an informant for any law enforcement agency and that Pratt expelled from the party. We have FBI documents proving that both were lies. Had the jury known that these were lies, Mr. Pratt would have had at least a hung jury. These are facts which the jury should have known because they go directly to the heart of Butler's motivation to frame Mr. Pratt. These are facts that "bear upon the worthiness of that confession," and which "tend to show whether or not the confession is true," and that "are relevant and material...in determining the



question of who to believe, Elmer Pratt or Julius Butler." (Mr. Kalustian's words 1167-1169).

It is also a proven fact that the FBI and the LAPD CCS and Intelligence Division worked hand in hand during that period of time. To say that the right hand (FBI) did not know what the left hand (LAPD CCS) was doing flies directly in the face of the documented facts. Butler was an only too willing stooge to help them frame Pratt who was their target to "neutralize." Once the FBI applied the right pressure to dislodge the letter from Sgt. Rice, then the FBI's close collaborators, Det. Callihan and Buckles of LAPD CCS, took charge of this murder investigation from the Santa Monica police. Within one month they slapped the case against Mr. Pratt together.

They were able to manipulate Mr. Olsen and Mrs. Reed to identify Mr. Pratt from a photo. They knew these identifications were weak and that Mr. Pratt's physical description was at variance with that given by the eyewitnesses two years earlier. As a result they did not show Mr. Pratt to them in a lineup, but instead secretly showed Mr. Pratt to Mr. Olsen while Pratt was sitting in a courtroom months before his trial. Back in December 1969 Mr. Olsen had selected another man in a lineup as the Pratt suspect. So Mr. Olsen had to be discreetly and sensitively handled. Mrs. Reed, on the other hand, could be relied on to fill in all the details to make Pratt fit her earlier, but far differently described suspect.

The same day Butler's letter was opened, LAPD CCS took the physical firearm evidence from the L.A. Sheriff's crime lab, who had already previously tested it, and gave it to Mr. DeWayne Wolfer. They somehow selected one of the .45's taken from Huggins' home two years earlier and asked Wolfer to make a comparative firearm examination. This was done even though the particular gun had a different colored handle than eyewitness accounts indicated. LAPD CCS also knew they could count on Wolfer to come through for them. Wolfer is a proven perjurer and incompetent ballistics examiner. Whatever he testifies to is often proven to be incredible and worthless. Eventually he left his profession in total disgrace because of his past patterns of perjury and sloppy, erroneous work, alot of which had occurred prior to his October 1970 examination and June 1972 testimony in the Pratt Case.

And, finally, there is good reason to strongly suspect that this murder was done by Messrs. Swilley and Hatter. Both of these men fit the description of the killers given by the eyewitnesses to the police on December 19, 1968 and compare very favorably to the police composite. Both confessed doing this crime to their friends. For one or more of these friends to come forward requires courage. Tyrone Hutchinson, a California state inmate, did so fearful (rightly or wrongly) that he could suffer the consequences by



angering law enforcement, and thus disturbing his future parole status. Tyrone had nothing to gain, but everything to lose in coming forward with this information. But, he overcame his fears, and did so anyway.

Although Swilley and Hatter are dead, their families are still very much alive and still living within blocks of the Hutchinson family and the other boyhood friends of Swilley and Hatter who might know of their involvement in the Santa Monica murder. Even though these "homeboys" who still live in the neighborhood were formerly associated with the BPP, they have no loyalty to Mr. Pratt at all. As far as they were and are concerned, he was an outsider to the 84th and Broadway area as well as the city itself, and therefore he inspired no real sympathy for his plight of doing time for something that two of their friends did. Besides, for any of the 84th and Broadway people to come forward with incriminating evidence against Swilley and Hatter, they will have to risk stirring up the "community's" anger against them for doing so. The neighborhood "ethics" is to "leave it alone" and let the dead and their families rest in peace. Nevertheless, Centurion Ministries will continue probing for anyone else who has knowledge of this crime, and is willing to come forward with such knowledge.





Centurion Ministries, Inc.

Seeking Justice for the Innocent in Prison

Surely, this one was innocent (Lk. 23:47)

June 16, 1994

*Rec'd VC/PO
7/1/94*

Mr. Louis J. Freeh, Director
Federal Bureau of Investigation
10th & Pennsylvania Ave., N.W.
Washington DC 20535

PRATT - ELDER - 62A-HQ-1073771

Dear Director Freeh:

As the enclosed January 5, 1994 L.A. Times article (please see enclosure 1) indicates, the Los Angeles District Attorney's office, at my request, has agreed to reexamine the Geronimo Pratt conviction. After conducting a thorough field reinvestigation and study of the entire written record of this case over the last two years, I am convinced that Mr. Pratt is completely innocent of the 1968 Santa Monica murder.

Mr. Pratt, who was the leader of the Los Angeles Black Panther Party in the late 1960's, has always maintained that he was in Oakland, CA at a BPP national conference when the murder for which he was convicted was committed on December 18, 1968. Earlier this year, as part of the LADA's review of Pratt's conviction, Special Agents [redacted] of the FBI office in San Francisco interviewed two investigators [redacted]

Only within the last several weeks have we come upon documentation that clearly establishes as a fact the following: *62A-HQ-1073771-22X1*

#1) As of 1975 the FBI San Francisco office had several hundred

[redacted]

ENCLOSURE
(ENCLOSURE ATTACHED)



5812

Mr. Pratt's San Francisco lawyer, [redacted] with whom I am closely working on behalf of Mr. Pratt, turned over these documents to Agents [redacted] last week on June 2 along with a letter of explanation. Please see Enclosure 2 for the entire package (letter and documents) that [redacted] turned over to these two S.F. FBI agents.

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The purpose of this letter is to ask you to do everything you possibly can to locate these [redacted] in order to see if the [redacted]
[redacted]

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I look forward to hearing from you on this matter. Thank you for whatever attention your office gives this request.

Yours truly,

Jim McCloskey
James C. McCloskey

enc: LA Times article and package turned over to S.F. FBI on June 2, 1994 by Pratt lawyer [redacted]

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New Hope for Geronimo Pratt

■ **Legal system:** The former Black Panther has spent 22 years in prison for a murder he says he didn't commit. Now a crusading lay minister has persuaded prosecutors to re-examine the case.

By ANDREA FORD
TIMES STAFF WRITER

He has tried for parole 12 times—and been denied. Amnesty International has tried to win him a new trial. Political luminaries and even one of the jurors who convicted him say he deserves another chance.

But Elmer (Geronimo) Pratt's best hope for freedom may have finally arrived in the person of a crusading clergyman who specializes in exonerating the "convicted innocent."

Lay minister Jim McCloskey is behind this week's decision by the Los Angeles County district attorney to re-examine a case against the former Black Panther Party leader, who has been imprisoned 22 years for murder.

McCloskey, whose New Jersey-based Centurion Ministries acts as a private detective service in selected death penalty and life sentence cases, has conducted his own

investigation into the case against Pratt.

In a detailed report turned over to Dist. Atty. Gil Garcetti, McCloskey said he became convinced that Pratt had nothing whatsoever to do with killing Carolyn Olsen on a Santa Monica tennis court and wounding her husband in 1968 during an \$18 robbery.

Pratt, 46, a decorated Vietnam War veteran, is serving a life sentence for the slaying, but has always maintained his innocence.

This week, Garcetti's office confirmed that the Pratt case is under review as a result of new evidence, but would not elaborate.

In addition to McCloskey, Garcetti has been urged in recent months to review the case by one of the jurors who convicted Pratt, as well as by U.S. Reps. Maxine Waters (D-Los Angeles), Don Edwards (D-San Jose) and others.

Through the years, other individuals and organizations, including the human rights group Amnesty International, have called for a new trial for Pratt.

There had been little response from authorities until McCloskey entered the picture with his 13-year-old Centurion Ministries.

The ministry gained national attention in 1992, when McCloskey's work freed Clarence Chance and Benny Powell, two Los Angeles men who were wrongfully convicted of the murder of a sheriff's deputy, and spent 17 years behind bars.

Please see PRATT, B8

PRATT: New Hope for Man Held 22 Years in Slaying

Continued from B1

McCloskey also is credited with freeing 10 other convicted people around the country.

He told The Times last week that he recently met with Los Angeles prosecutors about the Pratt case, which has been in and out of the court system for nearly two decades.

Appeals have been consistently denied and attempts to get the case reopened on the grounds that key evidence was not presented at Pratt's trial have been unsuccessful.

Pratt, who spent his first eight years in prison in solitary confinement—illegally, a jury later determined—was denied parole for the 12th time last year.

Stuart Hanlon, a San Francisco lawyer who has represented Pratt for 15 years and who contacted McCloskey after learning of the Chance and Powell case, said McCloskey's findings are significant given other evidence that has been unearthed over the years.

"New evidence, he said, further discredits the prosecution's main witness and provides other suspects for the killing.

Hanlon said he is heartened by the new review of the case.

Pratt arrived in Los Angeles

from his native Louisiana three months before the Olsen shooting. At the time, he was a 21-year-old recruit in the Los Angeles branch of the Panthers.

In 1970, when he was arrested in the Olsen slaying, he had moved up the party ranks, and was an official of a faction headed by Eldridge Cleaver.

Pratt has insisted for years that he was a victim of COINTELPRO, a controversial FBI program that was designed to covertly disrupt and create dissension within politi-

Monica shooting, which McCloskey and Hanlon say is confirmed by lawyers who say they have seen FBI wiretap transcripts of a call Pratt made from Oakland three hours before Olsen was killed.

In addition, prominent former Black Panthers, including Bobby Seale and David Hilliard, have recently signed affidavits saying Pratt was in Oakland at the time of the murder. Seale and Hilliard were feuding with Pratt in 1972 and would not testify on his behalf at his trial.

Prominent former Black Panthers, including Bobby Seale and David Hilliard, have recently signed affidavits saying Pratt was in Oakland at the time of the murder. Seale and Hilliard were feuding with Pratt in 1972 and would not testify on his behalf at his trial.

cally radical groups of the 1960s and '70s, such as the Black Panthers. Critics of the program also have also accused it of using unethical tactics to undermine the credibility of prominent radicals.

Pratt maintains that he was in Oakland at the time of the Santa

According to Hanlon, the most significant pieces of new evidence uncovered by McCloskey are affidavits from four people who say two other men, now dead, confessed to them that they had killed Olsen and wounded her husband.

McCloskey's report also includes

FBI memos saying the key witness against Pratt, a former sheriff's deputy turned Panther named Julius Butler, was providing information to the agency before he accused Pratt of the Olsen killing. That was withheld from Pratt's defense lawyer and the jury in the case, McCloskey contends.

Butler is currently an official of the First African Methodist Episcopal Church in Los Angeles and did not return several calls to his church office. During Pratt's trial, Butler strongly denied cooperating with the FBI, but documents made public by the agency in the early 1980s indicate that he provided information.

McCloskey also obtained statements from two former police officers who say Butler had contact with the FBI for months before he accused Pratt of the Olsen killing.

"There is absolutely no doubt in my mind that the jury would never have convicted Mr. Pratt had we known any of these facts," Hamilton wrote.

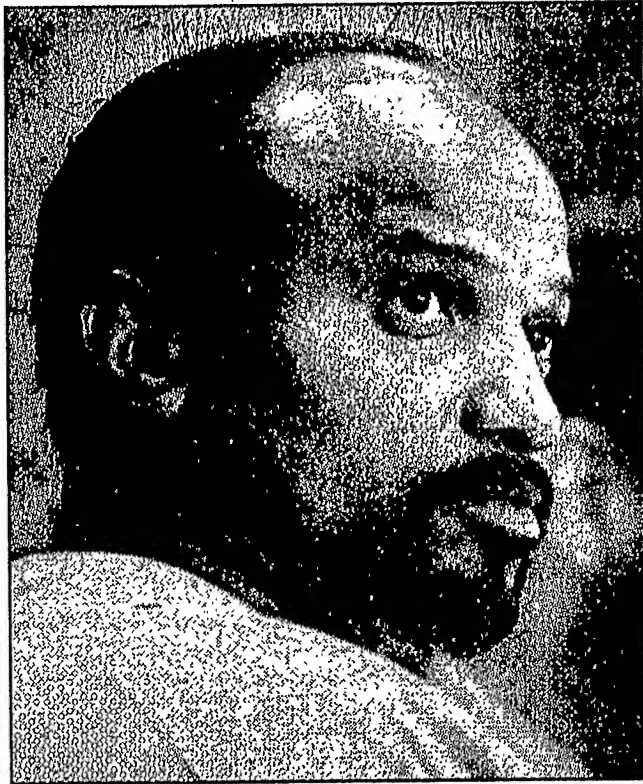
Superior Court Judge Richard Kalustian, who as a deputy district attorney was Pratt's chief prosecutor, would not comment Tuesday, saying he had no facts upon which to base a statement.

WEDNESDAY

JANUARY 5, 1994 CC†

HIGHLIGHTS

HOPE FOR PRATT: Lay minister Jim McCloskey is behind this week's decision by the Los Angeles County district attorney to re-examine a case against Elmer (Geronimo) Pratt, the former Black Panther Party leader who has been imprisoned 22 years for murder. **B1**



Associated Press

Former Black Panther Elmer (Geronimo) Pratt at 1987 parole hearing. He has been denied parole 12 times.

TAMBURELLO
HANLON
& WAGGENER

June 2, 1994

Tony Tamburello
Stuart Hanlon
Robert Waggener

Lawyers

214 Duboce Ave., San Francisco, CA 94103, 415/431-4500 Fax: 415/255-8631

[REDACTED]
Special Agents
Federal Bureau of Investigation
450 Golden Gate Avenue, 13th Floor
San Francisco, CA 94102

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Dear Agents [REDACTED]:

As you may, or may not, know, I am one of the attorneys for Mr. Elmer "Geronimo" Pratt. I have been his attorney for approximately [REDACTED]

I believe I spoke to Agent [REDACTED] in February of this year regarding an investigation Agents [REDACTED] were doing in Mr. Pratt's case.

At that time, it was my understanding that through a request from the District Attorney in Los Angeles County, the F.B.I. was conducting follow-up investigation with regard to affidavits

[REDACTED]

Other than interviewing [REDACTED] I do not know if you conducted any further investigation to verify their statements in the affidavits. However, because these matters were important to Mr. Pratt's case, I did, in fact, conduct further investigation.

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Through this investigation, I have obtained certain documents which are relevant to the question of whether or not [REDACTED] viewed F.B.I. documents in the mid-1970's, and whether these documents contained wire tap logs regarding electronic surveillance [REDACTED]

[REDACTED] I believe what I have discovered is extremely relevant to answering these questions in the affirmative and would be helpful in your response to the Los Angeles County District Attorney's Office.

[redacted]
Federal Bureau of Investigation
June 2, 1994
Page 2

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I will discuss these matters in somewhat chronological order. First, I discovered that a case did exist out of the District of Columbia, entitled David Dellinger v. John Mitchell, et al., case number 1768-69. I am enclosing as Exhibit B an Order in that case just for you to verify the caption and existence of the case.

I then received and reviewed correspondence between certain attorneys in this case that were written at the time of the mid-1970's investigation.

The first letter is a March 7, 1975 from attorney Leonard Weinglass to attorneys [redacted] of the Center for Constitutional Law in (at that time) New Jersey. It is my understanding that attorneys [redacted] in the Dellinger v. Mitchell case.

In that letter, Mr. Weinglass states that on Thursday, March 6, he visited the offices of the F.B.I. in San Francisco. He met there with Special Agents [redacted] for the purpose of reviewing surveillance logs. He reports the following:

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[redacted]

2. The 40,000 pages are not verbatim transcripts of recorded conversations, but summary logs. These pages are maintained in several hundred volumes of approximately 250 pages each. Each separate day has a face sheet which lists the name of the agent on duty, the time of the call (and whether incoming or outgoing), and a brief statement of the identities of the parties and the purpose and content of the call.

There then follows a number of pages reciting the conversation in great detail.

3. The F.B.I. practice was to transcribe these materials daily at the conclusion of each eight-hour shift. A card index system was maintained with the names of individual parties. All of the tapes have been transcribed as indicated above." (Exhibit C, page 1).

[redacted]
Federal Bureau of Investigation
June 2, 1994
Page 3

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Thus, in this letter, Mr. Weinglass verifies that he did enter the San Francisco F.B.I. office and reviewed logs, log summaries and/or the tapes themselves which would cover the period of [redacted]. In 1975, at least, all those summaries and logs were organized in a very formal fashion somewhere in the San Francisco field office of the F.B.I.

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Further, in the letter, Mr. Weinglass discusses having two people with him in his March 6 visit. They were a [redacted] at Santa Clara University, named [redacted] student named [redacted]. Mr. Weinglass indicated in the letter that there would be eight people looking through the records. He also indicated the difficulty of getting people in to see the records.

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In a letter of March 10, 1975, attorney [redacted] wrote to Mr. Weinglass, stating that the proper procedure for getting legal assistants in to view the records would be to file affidavits with the court (Exhibit D).

Attached as Exhibit E is a March 27, 1975 letter from [redacted] to the Clerk of the Court, with a copy to the U. S. Attorney, Mr. Edward S. Christenbury, including the affidavits of [redacted] to review records.

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Thus, it is now established that [redacted] and [redacted] did, in fact, have a court order to gain access to the F.B.I. logs and summaries in the San Francisco F.B.I. office discussed in Mr. Weinglass' letter.

Finally, I was able to obtain one work record of [redacted] [redacted]. In this document and letter, dated September 15, 1975, [redacted] wrote to an F.B.I. Agent Leo Brenneisen at the Golden Gate Avenue office in San Francisco. The letter was regarding Dellinger v. Mitchell, number 17198.

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In this letter, [redacted] thanks Agent Brenneisen for allowing him to view records over the last few months. Further, in the letter, [redacted] refers to certain files and identification of said files. Though these files did not include the wire taps for [redacted] they certainly would get us close to finding those wire taps. The reference numbers are as follows: #157-1204 Sub 2, San Francisco 3215 AR and AE 1, 2, and 3 (Exhibit F).

[redacted]
Federal Bureau of Investigation
June 2, 1994
Page 4

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b7C

Thus I believe we have established that [redacted] and [redacted] did, in fact, view wire tap logs in San Francisco under a court order, that covered a period from [redacted]
[redacted]

Because of the importance of this matter, I would like to meet with you to discuss this matter.

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Further, I would like to see if we could have the F.B.I.'s cooperation in locating the 40,000 pages of transcripts and summaries that is referred to by Mr. Weinglass. If we find these documents, I am sure we can find the date of [redacted] and determine once and for all if the statements of [redacted] and [redacted] are, in fact, accurate.

Since I am sure that you and your office join in my attempt to bring out the truth about Mr. Pratt's case, and because these matters cover events that happened 25 years ago, I do not believe there would be any privilege that could exist regarding the wire tap summaries, etc. If the F.B.I. maintains that there is such a privilege, I am sure it could be resolved in an appropriate manner.

Please contact me to discuss these matters.

Sincerely,

[redacted]
Enc.

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b7C

SH:db

Leonard I. Winglass

Attorney at Law

2025 Avon Street
Los Angeles, California 90026
(213) 660-9000

March 7, 1975

[redacted] and

Rutgers University School of Law
Constitutional Litigation Clinic
175 University Avenue
Newark, New Jersey 07102

b6
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Re: Dellinger v. Mitchell

Dear [redacted]

On Thursday, March 6, I visited the offices of the FBI in San Francisco. I met there with Special Agents [redacted] for the purpose of reviewing the surveillance logs. I can report the following to you:

[redacted]

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There then follows a number of pages reciting the conversation in greater detail.

3. The FBI practice was to transcribe these materials daily at the conclusion of each eight-hour shift. A card index system was maintained with the names of individual parties. All of the tapes have been transcribed as indicated above.

When I returned to the FBI offices in the afternoon, I

[redacted]
March 7, 1975
Page 2

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brought with me [redacted] at Santa Clara University, and [redacted] a law student at Hastings. They, together with a volunteer committee of eight persons, will follow through on examination of these materials. Based on our work of yesterday, I would say that the task is extensive, requiring considerable narrowing. I did not get into the other targets of the wiretap.

There are several things that I would like to call to your attention on the materials I perused.

[redacted]

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There was some discussion between [redacted] myself as to guidelines for the search. I have your letter of December 3, 1974, which I am forwarding to [redacted], particularly page 2. I hope this letter answers some of the questions you raised in the second to last paragraph.

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However, do we want to go further and check out other things? For instance, [redacted] recommends that we keep a record of the number of calls, so that we can report there were 60,000, etc. I was wondering about attorney-client calls. Or where cases are discussed (in several instances [redacted]).

How about where the [redacted] harassment which is ongoing at that time and the FBI fails to respond (would they be equally dormant if an ongoing robbery was discussed)? There are also some

b3

[redacted] and
March 7, 1975
Page 3

b6
b7C

pretty gritty personal references. While the agents assure me there was no intent to pry into personal matters, one summary log contains the notation that [redacted]

[redacted]
of this?

Should we note all

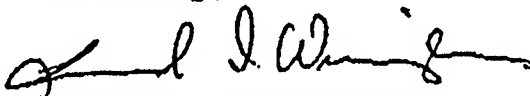
In an interesting aside, I uncovered the phone call that resulted in the Supreme Court decision in U.S. v. U.S. District Court. [redacted]

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[redacted]
In any event, Alan [redacted] I need a little more guidance and, as we are proceeding next week, the sooner the better. I am also enclosing a statement of my costs incurred to date. I would appreciate your getting it over to [redacted]

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Sincerely,


LEONARD I. WEINGLASS

LIW/bi
Encl.

Black Panthers find

Survivors now seek changes peacefully

By Dara Akiko Tom

Associated Press

OAKLAND — They are older, grayer. They no longer seek power in the barrel of a gun, and most left the organization long ago.

But one thing has not changed in the nearly 30 years since they arose from the mean streets of Oakland: The men and women who once led the Black Panthers still believe in the bringing "All Power to All People."

And though many former Panther leaders aren't interested in reviving the militant party of the past — the Panthers are now just a service organization in Oakland — they lament that the social work they began remains unfinished.

"I'm frustrated many times and find it very depressing that there seems not to be any real voice for the underclass," said former Panthers chief of staff David Hilliard, 51. "The only thing people seem to get together around for today is a rock concert. . . ."

"It's not 50-year-old revolutionaries and ex-Panthers who bring about change. It's youth who bring about change."

But the old Panthers try. Bobby Seale, who co-founded the group with Huey P. Newton in 1966, lectures 40 times a year and has established a nonprofit organization in Philadelphia to teach youth how to organize communities.

Elaine Brown hopes to build a school in South Central Los Angeles, to teach poor kids to be "enterprising human beings who will have something to do other than hope and wait for someone else to change the world."

"I have a personal interest in them because I was them. I know what that feels like when the world doesn't care whether you live or die tomorrow," she said in a telephone interview from her home in Paris.

Brown grew up in Philadelphia, where her deepest desire was to be



AP photos

NEWTON BACKERS: Panthers demonstrate for jailed Huey Newton in 1968; party co-founder was killed in 1989 in Oakland.

white. But then the Panthers came along, with their resounding call for social revolt. Malcolm X had been assassinated and the civil rights movement was losing steam.

The Panthers, Brown said, "gave me a sense of my value as a human being." She was with the Panthers for several years and served as the party's leader while Newton was in exile in Cuba.

"Our organization is really no different from other civil rights organizations," said Seale, 57. "The only difference is we believed in the right to self-defense."

In all, 28 party members and 14 police officers died in various Pan-

ther-police conflicts.

Seale says times have changed: "There's nothing wrong with being a cop. There's nothing wrong with being a white person. It's about where your heart is. . . . We've got to get everyone beyond the xenophobic isolationism."

But in those days, the Panthers were ready to fight. And eventually, they fell to fighting themselves.

Eldridge Cleaver, author of "Soul On Ice" and Panther information minister, fought with Newton. He was banned while in exile and tried to form a rival party. After a shootout with police, he jumped bail in 1968 and fled to Cuba, Algeria, the

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ENCLOSURE

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new battles to fight



MEMORABILIA: Former Panther leader David Hilliard at home in Berkeley; he is organizing a museum tour of Panther memorabilia.



NEW GOALS: Bobby Seale (left) and Elaine Brown. Seale now lectures and works with youths; Brown wants to build a school.

Where Panther leaders are now

■ **Elaine Brown**, who led the Black Panthers while cofounder Huey P. Newton was in exile, lives in Paris and continues working on a school in South Central Los Angeles for underprivileged children. She left the party in 1977.

■ **Bobby Seale**, who cofounded the Black Panthers with Newton in 1966, lives in Philadelphia. He lectures 40 times a year and has established a nonprofit organization teaching youth the basics of community organizing. Seale resigned from the Panthers in 1974.

■ **David Hilliard**, Panther chief of staff, lives in Berkeley and works for the Service Em-

ployees International Union, Local 790. He is working on establishing a museum focusing on black history and the history of the Panthers. He was expelled from the party in 1973.

■ **Eldridge Cleaver**, Panther information minister, was expelled from the party while in exile in the early 1970s. He returned to the U.S. in 1975 and renounced the party. He lives in Berkeley and in recent years has operated a recycling business. He continues his recovery from a brain hemorrhage suffered March 1.

■ **Huey Newton**, Panther cofounder, was shot to death Aug. 22, 1989, in West Oakland.

Soviet Union, France and elsewhere.

Cleaver returned to the United States in 1975, renounced the Panthers and became a born-again Christian and a Republican. He continues his recovery from a brain hemorrhage suffered March 1.

Seale resigned from the Panthers in 1974, as it dwindled from a high of 5,000 members, two-thirds of whom were women, to a few hundred.

"Huey had just degenerated into abusing drugs. ... I know that half

the reason of the party's demise was his fault," Seale said. The rest, he said, could be blamed on the FBI's successful efforts to create internal strife.

The Panther co-founders, who had made a pact to always "back each other up," last spoke in 1985. "He apologized for everything he did wrong," Seale said. After that, "I had nothing to say to Huey any more."

Newton was shot to death Aug.

22, 1989, in West Oakland. Tyrone Robinson said he shot Newton in self-defense over a drug debt. Prosecutors argued that Robinson was trying to gain status in prison gang.

No one expected Newton to die any other way.

"I was only surprised that it took so long," Brown said.

She quit the Panthers in the late '70s. "I knew that I was making a choice between bad and worse. I wasn't sure which one was which. My survival instincts told me it was time to get out," Brown said.

Still, she mourns the death of the party.

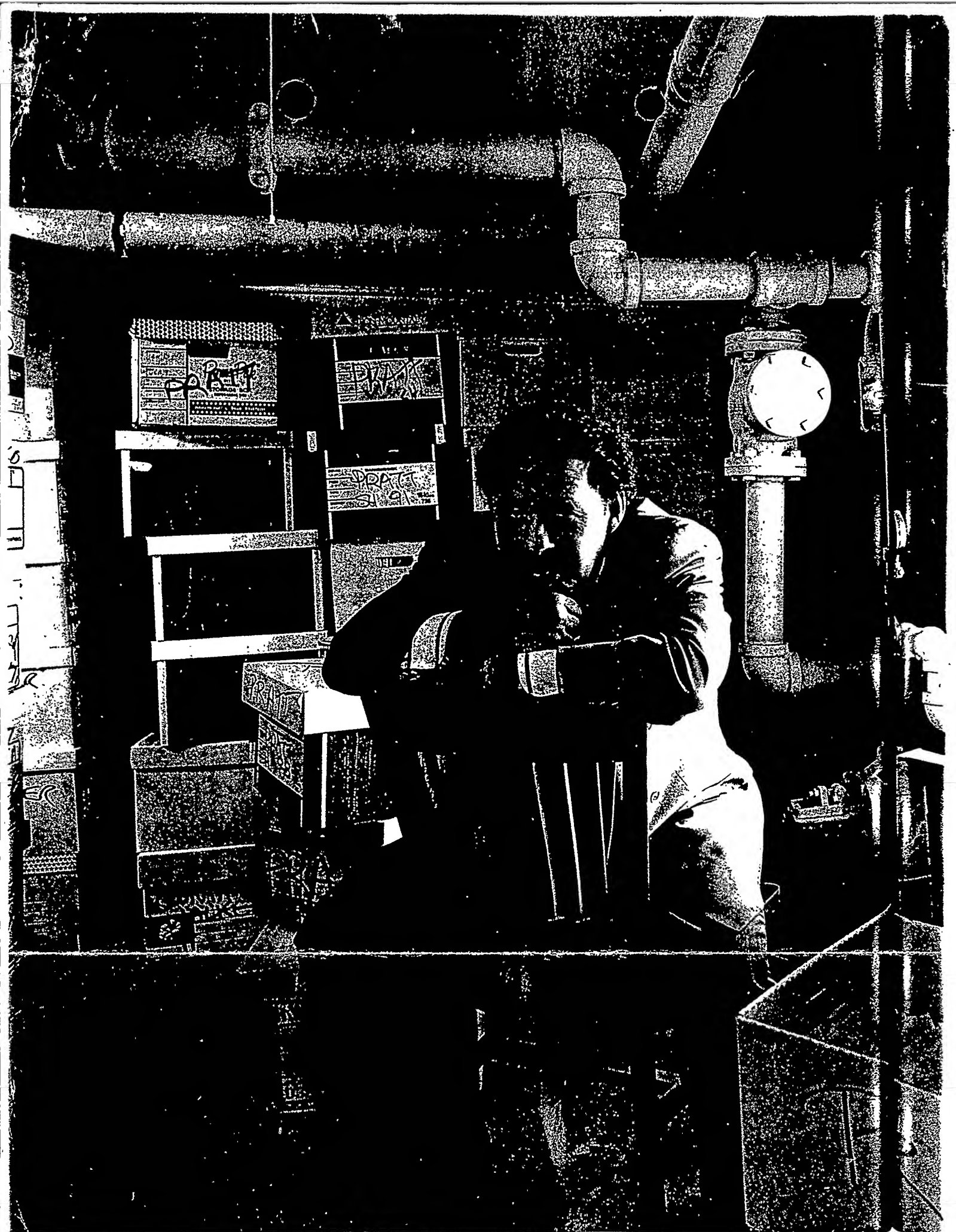
"It's as if after the Black Panther Party, life went on hold in Oakland," said the 50-year-old Brown. "I had tried so hard to make that one city a kind of jewel of hope in America. It is in fact kind of despairing right now."

Hilliard, who was banned from the party in 1973, expects a new movement to rise in its place.

"I don't know what it's going to take. I just know that oppression breeds resistance. ... I know that these are bad times and it was these times that gave rise to the Black Panthers," said Hilliard, who now works for the Service Employees International Union.

Hilliard is organizing a museum tour, beginning late this year, of Black Panther memorabilia including prison letters and videotapes of Newton's speeches. Hilliard believes it will offer lessons to those who want change.

"Anybody who would try to repeat (our) process is doomed to failure. They should take a page out of the Panthers history and learn from our mistakes," he said.



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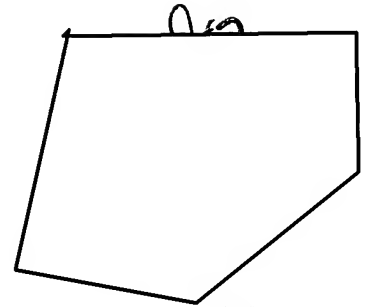
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Every Which Way But Out

Criminal defense attorney Stuart Hanlon wins a lot of cases. Geronimo Pratt's is not one of them.

BY JOHN ROEMER

A

T 45, SAN FRANCISCO lawyer Stuart Hanlon is at the peak of his career. Like his friend and colleague J. Tony Serra, he has represented notorious defendants on the political left and has parlayed that work into a successful criminal defense practice. In the last three years, he has won 11 cases in a row, including 3 in federal court. Hanlon helped Serra win the 1982 acquittal of Chol Soo Lee for a gangland slaying in San Francisco's Chinatown. The trial was the basis for the movie *True Believer*, and parts of Hanlon's opening statement and summation are in the script.

In one case, however, there has been no Hollywood ending.

Stuart Hanlon with his Geronimo Pratt files: on the case for almost 20 years.

PHOTOGRAPH BY CRISTINA TACONE

Geronimo Pratt, the former Black Panther leader convicted of murdering a young school teacher on a Santa Monica tennis court in 1968, has been in prison since 1970. The courts have denied all appeals, and Pratt, who is regularly turned down for parole, remains behind bars insisting on his innocence. For Hanlon and his client, the quest for appellate relief has been a roller coaster in a dark maze, a wild ride of hope and expectation followed by disappointment and despair. Along the way, Hanlon has committed his share of blunders and has uncovered government deceit. Through it all the lawyer has become more and more convinced that Pratt was framed.

Hanlon is heartsick about the case. And he can't let it go.

The early years: Stuart Hanlon, right, began working for Geronimo Pratt, left, in 1975, when Hanlon was a third-year law student.

MAYBE HANLON should have dumped the case when he first began having doubts about representing Pratt—the day he met the man. It was 1975, and Hanlon was a dark-bearded

Court and the U.S. Supreme Court denied Pratt's petition for a hearing. Hanlon took on the job of looking for new issues to raise in another round of appeals.

A guard escorted Hanlon into the prison's high-security adjustment center, where he joined three other lawyers in bare metal folding chairs facing a thick glass barrier. On the other side of the glass sat Pratt and three other prisoners shackled to their stools. Before Hanlon and Pratt could exchange many words, a prisoner suddenly reached up and slashed a guard on the arm with a homemade blade. As Hanlon remained riveted to his seat, a squad of riot guards rushed in and began beating all the prisoners with their truncheons.

Hanlon never finished his talk with Pratt that day. Instead, he went home, crawled into bed, and pulled the covers up over his head. Did he really want to be a lawyer? He lay there for hours thinking about that question. Then he pushed the covers aside and got to his feet. He had made up his mind. He wasn't about to be scared away from the law. And he would start becoming a lawyer by defending Geronimo Pratt.

THE CASE HAD NEVER been easy. Even before Hanlon got involved, the evidence against Pratt seemed overwhelming, and the appalling nature of the crime outraged the public.

The victims were Caroline Olsen, 27, a second-grade teacher in West Los Angeles, who was attempting a reconciliation with her estranged husband, Kenneth, a week before Christmas in 1968. The pair lived apart but met to play tennis at Lincoln Park in Santa Monica. Shortly after 8 P.M. on December 18, Kenneth Olsen, a 31-year-old high school English teacher and assistant principal, turned on the court floodlights and immediately saw two black men with pistols emerge from the shadows. They robbed the couple, taking \$18, and ordered them to lie face down and pray. As Olsen and his wife lay trembling and crying in terror, they were shot.

Kenneth was only slightly wounded, but Caroline rolled over and was hit twice more in the chest. She lingered in critical condition for 10 days before she died. Kenneth was left to raise their eight-year-old daughter.

The shooting of a white couple by two black men made page one of the *Los Angeles Times*. Racial tensions had been growing since the assassination of Martin Luther King Jr.

idealist in his third year at Hastings College of the Law. He had volunteered to work as a paralegal on prisoner rights cases at San Quentin and had heard Pratt needed help. The year before, both the state Supreme

COURTESY OF STUART HANLON

earlier that year. A few weeks after the Olsen murder, two L.A. Black Panther leaders were gunned down in a campus cafeteria at the University of California at Los Angeles, allegedly by members of a rival black militant group. Pratt, a decorated Vietnam veteran who served two Army tours with the 82d Airborne Division's long-range reconnaissance patrol, was left in charge of the local Panther group.

The police had no leads in the Caroline Olsen murder until late in 1970, when former Black Panther Julius Carl "Julio" Butler wrote to a black Los Angeles Police Department sergeant about threats he had been receiving from Black Panther leaders. Butler, a former sheriff's deputy, stated in the letter that Pratt had once bragged about the tennis court killing. A grand jury indicted Pratt in December, and after a number of preliminary skirmishes, his trial for first-degree murder began in June 1972.

Prosecutor Richard Kalustian had an easy case, it seemed. He had hairdresser Julio Butler's damning testimony: On December 18, 1968, Pratt and a man Butler knew only as Tyrone stopped by the hair salon where Butler worked to say they were going on a "mission." Later that night, Pratt reported he had shot some people in Santa Monica.

On December 19, Butler said, he saw Pratt at Panther headquarters at Seventh and Venice and showed him the *Los Angeles Times's* account of the tennis court shootings, and Pratt confirmed he had pulled the trigger.

Butler was a convincing witness, and he was coolly dismissive of defense attorney Johnnie L. Cochran Jr.'s efforts to discredit him as a police informant. He was "never in the world a snitch," he swore.

"Did you inform on anybody?"

"No."

"You never did that?"

"No."

Butler also told the jury that a .45-caliber Colt automatic handgun seized by police in a raid on a Panther house was the weapon Pratt used in the killing. The reason its ballistics failed to match bullets taken from Caroline Olsen's body, Butler explained, was because Pratt had replaced the barrel.

It didn't help that Pratt's 1967 Pontiac GTO convertible, with a white top over a red body, matched the description of the getaway car. Finally, Kenneth Olsen made a dramatic

courtroom appearance and unhesitatingly pointed to Pratt as his assailant.

With evidence like that, Kalustian had little trouble overcoming Pratt's alibi that he had been at a Panther conference in Oakland at the time of the shootings and that other Panther party members had access to his car. The only evidence corroborating Pratt's story was the testimony of Kathleen Cleaver, the wife of the fugitive Black Panther minister of information, Eldridge Cleaver.

After 10 days of deliberations, the jury found Pratt guilty of first-degree murder. As soon as the verdict was read, Pratt exploded: "Guilty! You're wrong. I didn't kill that woman, you racist dogs."

Before the verdicts on the counts for assault and robbery could be read, Pratt turned to Superior Court Judge Kathleen Parker and asked, "Your Honor, can I be excused? Your Honor, I am not going to sit here and listen to that, me being framed [for] something I didn't do."

After Pratt left, the rest of the verdicts were read: guilty.

AFTER HANLON had recovered from his first disastrous meeting with Pratt, he returned to San Quentin for a second interview. Pratt had been held in solitary confinement ever since he had arrived at the Marin County prison three years earlier. After the stabbing incident, authorities had tightened security; they were taking no chances with the man they considered the successor to Panther leader George L. Jackson, who was killed in a San Quentin shoot-out with guards. Jackson used a gun allegedly smuggled to him by one of his lawyers. On the second visit, Pratt was alone on his side of the glass barrier. The first thing Hanlon saw was a large Afro-style comb with wicked-looking steel prongs lying on the chair he was about to occupy.

"What's this?" he asked Pratt, who stood up to take a look.

"Don't touch it, man, it's a setup," Pratt urged. "They'll say you're passing me a weapon. Call a guard, quick."

He did. The guard, grinning, suggested Hanlon hand him the comb. Hanlon declined. "I hate them, and they hate me," he realized.

During his next visit, Hanlon made a serious mistake. While being searched, he emptied his pockets, and a marijuana roach fell onto the table. Arrested and charged with the

**"Don't touch
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They'll say
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Call a guard,
quick."**

John Roemer is a contributing editor at SF Weekly.

smuggling of contraband, Hanlon considered himself lucky to be sentenced to a drug diversion program. In Marin in the mid-1970s, that meant taking a yoga class.

Hanlon and Pratt decided first to contest Pratt's conditions of confinement. In 1976, Hanlon and a small group of young lawyers brought a federal civil rights suit against officials in the California Department of Corrections, alleging that Pratt was being kept in solitary solely because of his political beliefs. The suit asked for Pratt's release from solitary confinement and damages for his confinement. *Pratt v Rees*, ND Cal, No. C76-1069. In 1978, prison authorities finally released Pratt onto the San Quentin main line, and for the first time in years he was able obtain books and newspapers.

Hanlon and fellow fledgling criminal attorneys continued to pursue the damages end of the case, wrestling with the intricacies of federal civil law and procedure. In 1981, a jury awarded Pratt and his attorneys \$130,000 in damages and fees, to be split among 10 individuals. Many of the lawyers had put in so much time on the case that their hourly share came to less than the minimum wage.

As he waited for his civil case to go to trial, Pratt immersed himself in his trial transcript

Committee to Study Governmental Operations with respect to Intelligence Activities.

"I was framed," Pratt said. "Read this."

The Church committee's report revealed that the Black Panther Party had been a prime target of the Federal Bureau of Investigation's counter-intelligence program, known as Cointelpro. The report described the program as one of covert action aimed at "'disrupting' and 'neutralizing' groups and individuals perceived as threats."

That was interesting, Hanlon thought, but Pratt had evidently not been high enough in the party's ranks to receive more than a passing mention in the report. Still, it was enough to inspire Hanlon to bombard the FBI with Freedom of Information Act requests.

Thousands of pages eventually arrived at Hanlon's law office, a Victorian house on Duboce Street in San Francisco that he shared with eight other lawyers. Ninety percent of the material was blacked out, but enough was visible for Hanlon to mount a protracted campaign to obtain the originals. The FBI documents Hanlon retrieved showed that Pratt had been the subject of considerable attention in the FBI's L.A. field office—a situation unknown to the defense at trial.

The FBI documents indicated that Julio Butler had been a longtime FBI informant. (Butler, now a legal service attorney and chairman of L.A.'s First African Methodist Episcopal Church, still denies he was ever an FBI informant.) Surveillance reports partly corroborated Pratt's alibi that he was in Oakland. In addition, the documents revealed that the FBI had an informant inside the defense camp who may have overheard Pratt's lawyers discussing legal strategy during the trial.

While awaiting trial in the civil case, Hanlon used these new findings to file a writ of habeas corpus in November 1979 in the Los Angeles Superior Court. The petition was heard by Judge Kathleen Parker, who had presided at Pratt's original

trial. After a four-day hearing, Parker denied the petition and turned down Hanlon's request for an evidentiary hearing.

Parker said she didn't think the defendant "by wishful thinking ... can step from one point to another by speculation" and added

Robert Bloom, an Oakland civil rights attorney, discovered information supporting Pratt's alibi.



and eagerly devoured newspaper accounts of revelations about the FBI's domestic intelligence activities. One day Hanlon arrived at San Quentin to find Pratt waving a tattered green paperback that turned out to be the report of Senator Frank Church's Select

CRISTINA TACONE



that she didn't "see sufficient evidence that Mr. Pratt was framed and that he did not have a fair trial." *In re Pratt*, No. A267020.

Hanlon responded by accusing the judge of joining the prosecution.

"I would submit, too, that this case has been, since its inception, a coverup. What the [c]ourt has just said has implicated itself in this coverup. That the [c]ourt is the only—" he paused as the audience clapped, "—the only thing in this system of law that separates the prosecution, the state, from framing people. It is what separated Watergate from having to become more of a national disgrace than it was. And people turn to the courts to keep the government in line. And this [c]ourt has said we will not deal with it, we will side with the state. And that makes this [c]ourt part of the coverup. And the record should reflect that. That this is our opinion—or this is my opinion as to the action of this [c]ourt."

Parker, Hanlon says, got up and walked off the bench.

In April 1980, Pratt's writ of habeas corpus and request for an evidentiary hearing went again before the Second Appellate District Court, which denied them later that year. The decision ran more than 100 pages and included a vigorous dissent by Judge George William Dunn, who was on temporary assignment from Long Beach municipal court. *In re Pratt*, 112 CA 3d 795

Justice L. Thaxton Hanson, joined by Justice Mildred L. Lillie, acknowledged that

Hanlon was making extremely serious allegations. Hanson quoted, in italics, Hanlon's claim that "a totally innocent man has languished in the San Quentin and Folsom prisons since mid-1972 and ... was sent there as the result of a case [that] was deliberately contrived by agents of our state and federal governments." The justice also noted that Hanlon and Pratt had lined up prestigious support from civil rights groups and politicians, such as then Congressman Paul N. McCloskey Jr. (R-San Mateo, Santa Clara), who was helping on the case.

Hanson said there was no evidence that FBI informants in the defense camp relayed their knowledge to the prosecution. Evidence from the FBI surveillance reports was not sufficient, he said, and Julio Butler's alleged lies on the witness stand were not shown to have been known to the prosecution—and his perjured testimony, if any, was harmless.

"Conspicuously absent" from Pratt's alibi witnesses, Hanson complained, were Black Panthers who would have seen Pratt in Oakland on the night of the tennis court murder. In sum, the evidence against Pratt—eyewitness identification, the identity of the getaway car and murder weapon—all still pointed to his guilt.

In his dissent, Dunn was especially disturbed by Pratt's status as a target of Cointelpro and by evidence that Kenneth Olsen had originally identified others as the men who

(Continued on page 75)

For Stuart Hanlon and his client, the quest for appellate relief has been a roller coaster in a dark maze.

Geronimo Pratt

(Continued from page 63)

shot him and his wife. "Whether or not the evidence [that] was presented at the trial points unerringly to the defendant's guilt is not the fundamental issue," Dunn wrote, "because in any trial, if an effective defense is throttled, there can be no conclusion other than one of guilt.... A trial [that] is not fundamentally fair is no trial at all. It is a non sequitur to argue that a defendant is obviously guilty if it is an established fact that the defendant was not afforded a fair trial." 112 CA3d at 888-891.

The front-page news story in the *Los Angeles Times* following the decision dealt not so much with the substance of the opinion as with one of its footnotes. Hanson accused Dunn of breaching the FBI's confidence by disclosing that informants had infiltrated the defense. Dunn denied any impropriety and accused his colleague of slander. Hanson removed the offending passage before the case was published.

Hanson wrote another footnote—this one five pages long—in which he ridiculed Dunn. "The dissenting opinion," he said, "has bought hook, line, and sinker [the] defendant's arguments in his petition, which when dissected and analyzed have as little substance as a handful of fog."

(Footnote warfare was a feature of the late Thaxton Hanson's career on the bench. In an earlier case, Hanson was the target of a seven-line footnote written by Lillie and another justice. The note was printed so that the first letter of each line spelled out S-C-H-M-U-C-K. *People v Arno* (1979) 90 CA3d 505, n2.)

Today, Dunn, who is still a municipal judge, says he never knew the lengthy footnote existed until recently. Hanson committed a fundamental error in this case, Dunn claims. "He says, 'This guy's guilty, look at all the evidence.' But if you don't give a person a chance to establish that there were irregularities

and that the evidence is unreliable, hell you'd never have any acquittals. Everybody would be guilty," Dunn notes. "I certainly don't know whether Pratt is guilty or not. He may well be. But he should have a chance to prove he isn't."

THE STATE Supreme Court declined to review Pratt's case. In 1981, Hanlon took his writ to federal court in Los Angeles, where it was assigned to a federal magistrate, who eventually held a limited evidentiary hearing in 1985. Hanlon wasn't allowed to call either Julio Butler or prosecutor Richard Kalustian, now a Los Angeles superior court judge. He lost again. *In re McCarthy*, No. CV81 3407.

Staggered by the succession of defeats, Hanlon made another mistake. Because of a misunderstanding with a fellow defense attorney, he was six days late in filing his notice of appeal before the federal district court's Ninth U.S. Circuit Court of Appeals. A district judge said the misunderstanding was "excusable neglect," but the Ninth Circuit said it wasn't. *Pratt v McCarthy* (1988) 850 F2d 590.

The mistake devastated Hanlon. He felt burned out. He knew he needed assistance. He called up an acquaintance, Robert Bloom, a New York civil rights lawyer who had recently moved to the East Bay. Bloom trucked Hanlon's voluminous Pratt archive—four file cabinets and about 25 boxes—across the Bay Bridge to his home office in Berkeley. He spent six months reading, annotating, and excerpting the thousands of pages of material.

Like Hanlon, Bloom is a trial lawyer impatient with the law library and eager for the field. Among his first ventures beyond the file folders was a 1991 foray north to Crescent City. He went to Pelican Bay State Prison to put a face and a surname to Tyrone, the man whom Julio Butler claimed had been with Pratt on the night the Olsens were shot.

William Tyrone Hutchinson was an L.A. Black Panther who, along with Pratt, was arrested in 1970 for the tennis court murder and was now serving time for an unrelated crime. Hutchinson told

Bloom that he had been held for a week and had denied to the police that he or Pratt committed the murder. He had told police that Herbert Swilley and Larry "Dopey" Hatter, both friends of Julio Butler, were the killers. Hutchinson said he had known the men since his childhood; they were his neighbors in South Central L.A. Hutchinson claimed the men had described a man and woman shaking and crying just before they were shot. He claimed that the police had warned him not to discuss the information with anyone else. He was released and never charged with the murder.

Although Bloom soon learned that both Swilley and Hatter were dead, he felt encouraged at last to have the names of another set of alleged killers. A second break came weeks later when David Hilliard, the former Black Panther Party chief of staff, told Bloom in an affidavit that Pratt had indeed been in Oakland on December 18, 1968. Five other Black Panthers, including Bobby Seale, said the same thing in separate affidavits. A deep rift between the Huey Newton and Eldridge Cleaver party factions in 1971 and 1972 resulted in Pratt's expulsion, Hilliard explained, and they had orders that no party member was to help Pratt at trial.

Another piece of evidence came from retired FBI agent M. Wesley Swearingen, who had been assigned to Cointelpro cases in the '60s and '70s. Bloom knew of Swearingen because the former agent had filed affidavits in other Cointelpro-related cases. Swearingen told Bloom he had been in FBI headquarters in Los Angeles during the Pratt trial and had overheard a fellow agent say, "The son of a bitch was in Oakland." Swearingen said in the affidavit, "Based on the context in which I heard [the agent's] comment, I took that to mean that [the agent] knew that [Pratt] was in Oakland at the time the crime was committed in Santa Monica."

Swearingen also said that in 1976 and 1977, he had reviewed Black Panther wiretap records pursuant to a request made under the Freedom of Information Act. He found a document revealing the FBI had authorized a wiretap at the L.A. headquarters during a five-

week period in 1968. Yet Swearingen, a 25-year veteran, could find no evidence of the wiretap logs. "That was incredible!" he said in the affidavit. "There was no document to reflect that the materials had been destroyed pursuant to any FBI authorization.... [I]t is the only time such an event ever happened that I know of. In my opinion, one or more persons in the FBI Los Angeles office deliberately saw to it that these materials were not available." (Emphasis in the original).

Soon after collecting the Hilliard and Swearingen affidavits, Bloom attended a party at a South of Market nightclub in San Francisco. The occasion was the release from parole of Johnny Spain, a former prisoner active in militant black politics. Munching canapés, Bloom struck up a conversation with Patricia J. Richartz, a paralegal and investigator.

When she heard what Bloom was up to, Richartz mentioned that pursuant to a court order obtained by attorney Charles Garry, she and David Fechheimer, a well-known San Francisco investigator, had been admitted in 1975

to the FBI's closely guarded wiretap files in the San Francisco federal building. To Bloom's astonishment, Richartz revealed that she had seen an FBI wiretap log placing Pratt at a house on Santa Rosa Avenue in Oakland at about the same time as the Santa Monica murders.

Richartz explained that she had long been familiar with Pratt's alibi and that although she was working on another case, she immediately recognized the significance of what she had seen. She told Bloom she had mistakenly assumed that the information was available to Pratt's defense.

Bloom used the new evidence—including affidavits from Richartz and Fechheimer—as a basis for another habeas corpus petition, which he filed in June 1991 in San Francisco Superior Court. He also asked the court for an order to search for the Oakland wiretap. The state transferred the case to Los Angeles. The 147-page petition, backed by some 300 pages of exhibits, was shipped south and arrived at the L.A. court on August 14, 1991. At 10 A.M.

the next day, Judge Gary Klausner ruled there were "insufficient grounds stated" for him to grant relief. *In re Pratt*, No. A267020. When the court of appeal denied Bloom's request for a writ of mandamus directing the judge to hear the case, he filed the same writ with the court of appeal in San Francisco; it also turned him down.

"The attorney general has never responded to the substance of our complaint," Bloom says, "and we've never been before a judge to even ask to view the Oakland wiretap records."

NOW BLOOM KNEW how Hanlon felt. Abandoning the judicial system, the lawyers decided to try another route. Bloom enlisted the aid of James McCloskey, a minister who heads Centurion Ministries of Princeton, New Jersey, an organization that searches out evidence to help free those McCloskey considers "the imprisoned innocent." Over the last decade McCloskey has had

well-publicized success in finding a dozen prisoners across the country. He last received national attention in 1992, when he persuaded then Los Angeles District Attorney Ira Reiner to petition the courts for the release of Clarence Chance and Benny Powell, who served 17 years in prison after they had been wrongly convicted of murdering a sheriff's deputy.

McCloskey based his six-month investigation on Bloom's discoveries, building on the identification of Swilley and Hatter as the actual killers of Caroline Olsen. Pounding the streets of South Central L.A., McCloskey located family and friends of the men who described the two as violent drug addicts capable of robbery and murder.

McCloskey found a former Black Panther who once confronted Swilley and Hatter over rumors they had committed the tennis court crime. The act went against Black Panther rules, the former Panther complained, and made the party look bad. Instead of denying it, the men reportedly replied, "We've got to get dollars somehow."

McCloskey's lengthy report also attacked Julio Butler's credibility, bolstered Pratt's alibi, and cast doubt on Kenneth Olsen's eyewitness identification. In addition, McCloskey spoke with three of Pratt's jurors, all of whom now believe in his innocence. "I think Pratt was framed," one said. "If I knew Butler was an informant, it would have made a difference in not believing him.... Something wasn't fair about it."

In December 1993, McCloskey and Hanlon discussed the case with top deputies of L.A. District Attorney Gil Garcetti, who promised to give it a close look. In June, Hanlon still had not heard back from the DA's office.

HANLON CONTINUES to visit Pratt frequently and says their friendship has helped him keep a fresh perspective on the practice of the law.

It's a freshness that is probably not warranted. Pratt has had 12 parole hearings, and his 13th is scheduled for August. Hanlon is bracing himself for yet another disappointment. "It's rather

difficult for us to feel positive about another hearing," he acknowledges.

Hanlon, who had once accused Pratt's trial judge, Kathleen Parker, of being part of a government coverup, has now expanded that charge to cover the entire judiciary. He claims judges don't want to admit the government was capable of prosecutorial misconduct. "I've been a lawyer for almost 20 years, and I win almost every trial I do," he says. "I win federal drug cases and murder trials. It just boggles my mind that we have continued to lose Pratt's case. There could be 10 reversals on the evidence we have."

Kalustian, Pratt's prosecutor and now an L.A. superior court judge, denies any misconduct occurred. In January 1980, Kalustian denied under oath that he had any knowledge of the FBI involvement in the Pratt prosecution. In addition, Klausner, the judge who rejected Bloom's 1991 writ and a former L.A. deputy district attorney, denies having consulted with Kalustian on the matter.

The denials don't shake Hanlon's dark suspicions. "No matter how good a lawyer you are, if people want to keep a guy in prison, they can. I came in thinking the law was political, that the rich get justice and the poor don't. Sometimes you forget that, because in criminal law there aren't many good guys and bad guys. But Geronimo Pratt reminds me that good guys do exist. He's one of them. And the law is political. It's not evenhanded."

Hanlon fears Pratt will lose his parole hearing next month because, he says, the system doesn't like to parole anyone who won't confess guilt and beg forgiveness. Yet Hanlon can't help but hope. That's what has kept him plugging away on the Pratt case all these years. He thinks—*hopes*—the evidence accumulated by Bloom and McCloskey may help.

"If the DA and the Los Angeles police agree not to oppose parole," he says, "the board might say, enough is enough. 'You know, Nelson Mandela's lawyers had no expectations for 20 years. But they kept going because that is what life is about. They refused to give in. And so will we. Pratt and I will not let these people break us down.'"



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535

December 9, 1994

[Redacted]
Deputy District Attorney
Appellate Division
Los Angeles County District Attorney's Office
849 S. Broadway
Suite 1100
Los Angeles, California 90014

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Dear [Redacted]

This letter transmits documents responsive to your request of 8/31/94, for access to and copies of FBI documents concerning Elmer Pratt, aka Geronimo [Redacted]. This request resulted from your review of this file while at the FBI's Los Angeles field office on 8/31/94.

The enclosed documents were processed pursuant to a memorandum from Assistant to the Attorney General Richard Scruggs to the General Counsel, FBI, dated 7/13/94. The documents consist of approximately 113 redacted pages which have been completely or partially declassified. In addition, the redactions affecting these documents were made to protect personal privacy, source information, and information which is protected by federal statutes. Copies of the codes explaining the redactions are included with the released documents.

Sincerely yours,

Robert S. Conforti
Section Chief
Violent Crimes and
Major Offenders Section
Criminal Investigative Division

Dep. Dir. _____
ADD Adm. _____
ADD Inv. _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
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Intell. _____
Lab. _____
Legal Coun. _____
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Cong. Affs. Off. _____
Off. of EEO _____
Off. Liaison &
Int. Affs. _____
Off. of Public Affs. _____
Telephone Rm. _____
Director's Sec'y _____

Enclosure

62A/HQ-1070771
- Mr. Conforti

ENCLOSURE FILE

AS:as (6)

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SEE NOTE ON PAGE TWO

MAIL ROOM

Note: On 12/1/93, Los Angeles District Attorney (LADA) Garcetti wrote a letter to Attorney General Reno requesting that she assist the LADA in determining if the FBI has in its possession any information which will impact on a habeas corpus petition from Elmer Pratt, an incarcerated California prisoner and "cause celebre." This request was reviewed by the Department of Justice (DOJ) and forwarded to the Violent Crimes and Major Offenders Section (VCMOS), Criminal Investigative Division (CID), FBI, on 2/1/94.

The Violent Crimes/Fugitive Unit (VC/FU) conducted a review of pertinent FBI files dealing with Elmer Pratt, which files were situated in the FBI field offices at Los Angeles (LA) and San Francisco (SF) and at FBI Headquarters (FBIHQ). This review also included files reporting the results of previous inquiries into this general matter, including those related to the 1980 Pratt Task Force report.

This letter transmits redacted documents to the LADA, which were identified in a review conducted at the FBI's LA Office by representatives of the LADA on 8/31/94. These documents were declassified and redacted by the Civil Discovery Review Unit. On 12/2/94, Assistant to the Attorney General, Richard Scruggs, concurred that the enclosed documents could be forwarded directly to the LADA.

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Chief of Bureau	Chief of Dept.	Chief of CID
Asst. Dir.:	Asst. Dir.:	Asst. Dir.:
Adm. Serv.	Ident.	Intell.
Inv.	Lab.	Legal Coun.
Off. Cong. & Public Affs.	Rec. Mgmt.	Tech. Serv.
Training	Off. of the Inspector Gen.	
Dep. Dir.:	Dep. Dir.:	
Adm. Serv.	Ident.	
Inv.	Lab.	
Off. Cong. & Public Affs.	Rec. Mgmt.	
Training	Off. of the Inspector Gen.	



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535

April 20, 1995



Los Angeles County District Attorney's Office
849 S. Broadway, 11th Floor,
Los Angeles, California 90014

Re: Elmer "Geronimo" Pratt, LASC No. A267020

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Dear

This letter is a follow-up to your March 22, 1995, letter to Richard Scruggs, Assistant to the Attorney General, and your March 16, 1995, telephone conversation with Supervisory Special Agent (SSA) . For your information, on February 15, 1995, SSAs and met with a senior staff person for United States Senator Patrick Leahey. Senator Leahey's office was contacted by the concerning Elmer Pratt, aka Geronimo. Senator Leahey's staff requested a briefing from the FBI concerning the issues raised by During this briefing, Senator Leahey's staff were provided a summary of the FBI's response to the Los Angeles District Attorney's Office's request for information related to Pratt and any FBI electronic surveillance records. In addition, Senator Leahey's staff requested an explanation of several documents, provided to them by which purport to confirm the allegation that the FBI conducted an electronic surveillance of the Black Panther Party (BPP) and Pratt during the period encompassing December 18, 1968.

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Certain documents were raised in issue by and subsequently by which are described as:

Airtel to Special Agent in Charge (SAC) Los Angeles (LA) from

Dep. Dir. _____
ADD Adm. _____
ADD Inv. _____
Asst. Dir.:

Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Insp. _____
Intell. _____
Lab. _____
Legal Coun. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____

1 - Mr. Conforti

62A/HQ-1073771

AS:as (7)

SEE NOTE ON PAGE SIX

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Cong. Affs. Off. _____
Off. of EEO _____
Off. Liaison & _____
Int. Affs. _____
Off. of Public Affs. _____
Telephone Rm. _____
Director's Sec'y _____

MAIL ROOM ☒

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MAILED 34

APR 24 1995

[REDACTED]

Director FBI, dated 10/31/68, entitled "Black Panther Party, Los Angeles Division;" Teletype from SAC LA to Director FBI, dated 12/20/68, entitled "Black Panther Party"; and Airtel from SAC San Francisco (SF) to Director FBI, date excised, entitled "Administrative handling of material received through TESURS and MISURS, San Francisco Division." Copies of these documents are enclosed herewith.

As you are aware, this issue was previously raised by your office in a letter to the FBI, dated October 19, 1994, and which was addressed by the FBI in the October 20, 1994, memorandum from Robert S. Conforti to Assistant to the Attorney General Richard Scruggs. In your October 19, 1994, letter you provided the FBI with a copy of the FBI teletype dated 11-16-68, from SAC LA to the Director FBI, as well as other similar documents, which you received from [REDACTED]

[REDACTED] alleges that these documents prove the FBI conducted electronic surveillance of the BPP during December 1968, and that it was likely that such surveillance also covered the date of December 18, 1968 - the date of the crimes for which Pratt was convicted.

For further clarification, the above described documents concern intentioned or actual electronic surveillance of the BPP at Los Angeles and San Francisco. These documents are not directly related, other than that they concern the FBI's investigation of the BPP circa 1968-1969. The excised documents, as presented by [REDACTED] and as viewed by someone unfamiliar with the FBI's reporting procedures, could cause the reviewer to interpret them incorrectly and to infer that they are related to a single event. This is not the case, as was explained in my memorandum to Mr. Scruggs.

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The enclosed document, Airtel from SAC SF to Director FBI, date excised, entitled "Administrative handling of material received through TESURS and MISURS, San Francisco Division" is a document intended to provide FBIHQ with information on the administrative processes in place at San Francisco on 2/27/69, as well as the impact of the technical surveillance(s) (tesurs) on the offices manpower. The second paragraph of this document states, "The San Francisco Office, with the Bureau's authorization and instruction, installed a tesur, SF 3117-S*, on [REDACTED] a tesur, SF 3215-R*, covering [REDACTED]

[REDACTED] alleges that the reference to the tesur of [REDACTED] demonstrates that the FBI conducted electronic surveillance of the BPP in 1968 and therefore may have

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[redacted]

information relevant to Pratt's whereabouts on 12/18/68. In fact the document references two distinct tesurs which were active at the time of the document. The two tesurs are not related to each other and are separate utilizations on different investigations. The tesur referenced under SF 3117-S* on [redacted] is not related to the BPP, 3106 Shattuck Ave, Berkeley, California, or Pratt.

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The other two documents also concern separate and distinct events, with their common denominator being the BPP investigation. The interpretation of these documents as alleged by [redacted] is that they relate to a single event and that they provide proof that FBI conducted an electronic interception at the LA BPP headquarters during December, 1968. The FBI documents in the possession of [redacted] and others acting on Pratt's behalf were most likely obtained through civil court procedures and/or Freedom of Information requests. Such documents are often excised by the FBI prior to release and may not contain sufficient facts and details to permit an accurate assessment of their relevance. In fact, the documents provided by [redacted] when taken in context do not indicate the conclusions he proposes.

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In the first instance (the 10/31/68 airtel from SAC LA)

[redacted]

California, if approved. FBI files disclose that on 10/18/68, the FBI's LA office requested authority to conduct a telephone

[redacted] This request was forwarded by FBIHQ to the Department of Justice, by Memorandum dated 11/8/68, and was denied in a Memorandum from Attorney General (AG) Ramsey Clark to the Director FBI, dated 12/3/68. FBIHQ appealed the AG's decision by a letter from the Director FBI, dated 12/10/68, requesting [redacted]

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This appeal concerned additional issues beyond the [redacted] [redacted] and thus received appropriate attention from the AG. FBI records indicate that AG authority was granted on 3/20/69, and installation made at [redacted]

The second instance (the 12/20/68 SAC LA teletype) the documents reports discontinuance of an unidentified activity (document excised). A review of FBI files disclosed that this document concerned a cooperative individual who, on or about 11/14/68, provided information to the FBI [redacted]

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[REDACTED]

[REDACTED]

Since the information concerned serious acts of violence, the FBI developed a plan to monitor this individual telephone and any potential contacts with the suspects. This plan involved the consensual monitoring of the cooperator's residential phone by placing an extension line to the FBI office and the consensual monitoring by microphone of his vehicle. The consensual monitoring of the cooperator's residential telephone was authorized by FBIHQ on 11/14/68. commenced on [REDACTED] and was

[REDACTED]

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The records of the FBI at Los Angeles and FBIHQ were reviewed to obtain additional details on the above described event to determine if any tapes or transcripts were produced during the 11/15 to 12/20/68 period. This review disclosed that the threat information was appropriately disseminated to FBIHQ, LAPD, Los Angeles County Sheriff's Office, U.S. Secret Service, Bureau of Alcohol, Tobacco and Firearms, and the United States Attorney, on or about 11/14/68. The FBI's records do not provide any documentation that recordings or transcripts of telephone conversations or other conversations were produced and retained concerning the cooperative source during this period. Further, additional record searches at FBIHQ and elsewhere failed to document any recordings were obtained or retained concerning the vehicle microphone. FBIHQ electronic surveillance index does not indicate any interceptions involving this source for the period of November or December 1968.

As you are aware, you previously provided SSA [REDACTED] with a copy of the September 16, 1980, FD-302 record of interview of Special Agent (SA) [REDACTED]. In this document, SA [REDACTED] discussed the operation of a source who consensually agreed to the monitoring of his own phone and vehicle by the FBI. SA Gardner's record of interview states that the vehicle monitor was not productive but that the residential telephone produced information which was of assistance in apprehending several individuals. The record of interview further related that tape recordings may have been originally made but Gardner could not recall "whether the tapes were retained once the pertinent

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[redacted]

information had been extracted and channelized..."and"... owing to the limited productivity of the telephone extension and the intelligence purpose for which it was installed, it is likely that no tapes were retained following review as they served no prosecutive purpose." SA [redacted] record of interview states that he recalled no information obtained during this event which was related to Pratt. Similarly, the September 23, 1980, FD-302 record of interview of SA [redacted] contains information corresponding to that offered by [redacted]

In your letter to Mr. Scruggs, and in your conversation with SSA [redacted] you requested that the FBI advise if any information was available concerning the identities of the alleged FBI Agents who confronted former Los Angeles Police [redacted] on the street during 1969, shortly after [redacted] received an envelope from [redacted]. A review of relevant FBI files at FBIHQ and FBI LA revealed no documentation or record of such an incident concerning [redacted] and [redacted]. I cannot substantiate [redacted] assertion that two "FBI Agents" confronted him and demanded the envelope he had just received from [redacted].

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I hope that this information will clarify those issues clouded by incomplete information and out-of-context conjecture. I hope that your office will share the results of your review of this matter with Mr. Pratt's attorneys, the [redacted] and others so that this matter can be resolved.

Sincerely yours,

-S-

Robert S. Conforti
Section Chief
Violent Crimes and
Major Offenders Section
Criminal Investigative Division

1 - Mr. Richard Scruggs
Assistant to the Attorney General
Department of Justice

[REDACTED]

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Note: On 12/1/93, Los Angeles District Attorney (LADA) Garcetti wrote a letter to Attorney General (AG) Reno requesting that she assist the LADA in determining if the FBI has in its possession any information which will impact on a habeas corpus petition from Elmer Pratt, an incarcerated California prisoner and "cause celebre." This request was reviewed by the Department of Justice (DOJ) and forwarded to the Violent Crimes and Major Offenders Section (VCMOS), Criminal Investigative Division (CID), FBI, on 2/1/94.

The Violent Crimes/Fugitive Unit (VC/FU) conducted a review of pertinent FBI files dealing with Elmer Pratt, which files were situated in the FBI field offices at Los Angeles (LA), San Francisco (SF), and FBI Headquarters (FBIHQ). This review also included files reporting the results of previous inquiries into this matter, including those related to the 1980 Pratt Task Force report. Responses were transmitted to the Los Angeles District Attorney's Office (LADAO), Department of Justice, and affected FBI offices on 3/15/95, 12/9/94, and 10/20/94.

This letter transmits updated information to the LADAO, concerning issues raised by the [REDACTED] a prisoner's rights advocate and Pratt supporter, through the office of U.S. Senator Patrick Leahey. The VC/FU and Office of Public and Congressional Affairs (OPCA) briefed members of Senator Leahey's staff on 2/15/95, at which time the staff members raised the issues addressed in this communication. Subsequently, on 3/16/95, Deputy District Attorney (DDA) [REDACTED] LADAO, contacted the VC/FU and advised that similar issues were identified to his office by [REDACTED] was advised that a response and clarification would be addressed to the LADAO regarding [REDACTED] assertions. Assistant to the Attorney General Richard Scruggs concurred that this letter be forwarded directly to the LADAO with a copy to his attention.

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10/31/68

AIRTEL

AIR MAIL - REGISTERED

TO: DIRECTOR, FBI (157-10305)
FROM: SAC, LOS ANGELES (157-1618)
RE: BLACK PANTHER PARTY (BPP)
LOS ANGELES DIVISION
EX - BPP

JUNE

Re Bureau airtel to Los Angeles, 10/29/68.

There are two numbers subscribed to by the



installation will be made in accordance with established Bureau procedures.

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The term "maximum possible security" was used in the FD-142 submitted because it is felt that this term more accurately describes the situation as it exists.

The term "full security is assured" would seem to imply that no risk of discovery exists. For this reason, the term "maximum possible security" was used.

- 1 - Bureau (AM-REGISTERED)
- 1 - Los Angeles

SPJ/ECM

RHS (4)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 3/20/80 BY SP2191/10/68

SEARCHED
INDEXED
SERIALIZED
FILED

105-165706-26-40

ENCLOSURE

10
157-1618A-79

62A-HQ-44317-34

AIRTEL

AIR MAIL - REGISTERED

TO

DIRECTOR, FBI

FROM

SAC, SAN FRANCISCO

JUNE

SUBJECT

ADMINISTRATIVE HANDLING OF
MATERIAL RECEIVED THROUGH
TESURS AND MISURS,
SAN FRANCISCO DIVISION

As the Bureau is aware, the [REDACTED]

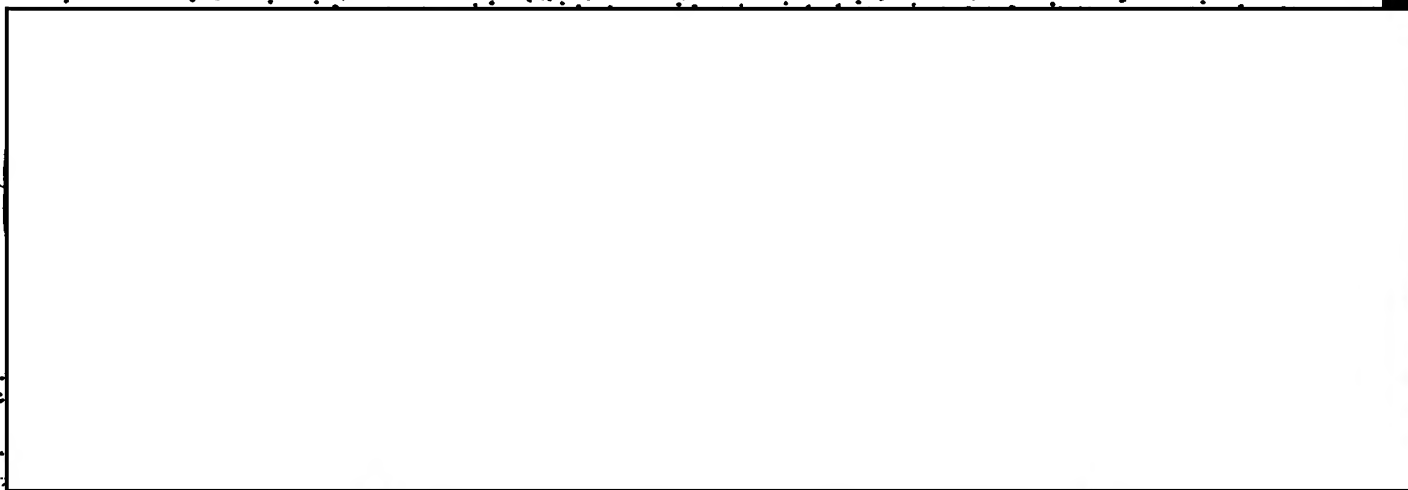
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The San Francisco Office, with the Bureau's authorization and instruction, installed a tesur, SF 2217-S*, on [REDACTED] and [REDACTED] installed a tesur, SF 2215-B*, covering [REDACTED]

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The June procedures in the past, in the handling of the material received through tesurs and misurs, have been as follows:



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64-13-107277-14

With the inception of the installation of SF-300-9-34, Bureau instructions at the Department's request, all conversations from this installation were transcribed to the log verbatim and are still so done. This installation is on an espionage matter and, while it was not so stated, it is believed the reasoning behind this was for legal purposes at some future date.

With the activation of SF-300-9-34, no instructions have been issued by the Bureau and, from the activity monitored from this installation to date, this office does not recommend the same verbatim procedure, due to the fact that some conversations are personal in nature and have little or no bearing on intelligence concerning the investigation of this case.

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As can be readily seen; this is an impossibility for one employee to handle and transcribe this volume of calls.

We have two alternatives to handle this situation, and there is every reason to believe that this problem will increase with the feeling that there will be more installations in the immediate future. Alternative #1 would be to add additional employees to this installation and follow the same procedures as set out above. Alternative #2 would be for the employee taking the call to monitor same, where time permits; make notes when possible, and thereafter turn the tapes over to a stenographer and have the stenographer transcribe the conversation and prepare the log. The latter is not recommended by this office, inasmuch as we have been advised by the Bureau that both of these installations are legal installations, and there exists a strong possibility in the future that these logs will be used as evidence. There definitely is a question as to the legality of the log, if the employee receives the call and the tape is transcribed and thereafter typed by a stenographer or some other person.

The above is submitted for a review and evaluation by the Bureau. The San Francisco Office will continue to operate this installation under the same procedures that have been used over the past, and the Bureau is requested to advise whether this procedure should be continued.

ATP

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Asst. Dir.:	
Adm. Serv.	
Crim. Inv.	
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Tech. Serv.	
Training	
Off. of Liaison & Int. Affs.	
Off. of the Inspector General	
Off. of the Ombudsman	
Off. of the Privacy Officer	
Off. of the Records Officer	
Off. of the Security Officer	
Off. of the Training Officer	
Off. of the Public Affairs Officer	
Off. of the Legal Affairs Officer	
Off. of the Intell. Affairs Officer	
Off. of the Ident. Affairs Officer	
Off. of the Crim. Inv. Affairs Officer	
Off. of the Adm. Serv. Affairs Officer	

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PP RUCNFB

DE FBILA #0009 0730215

ZNR UUUUU

P 140206Z MAR 95

FM FBI LOS ANGELES (62A 65H-HQ-1073771) (P)

TO DIRECTOR FBI/PRIORITY/

BT

JNCLAS

CITE: //3410:PLA//

PASS: SSA [REDACTED] VC/FU, CID, ROOM 5042.

SUBJECT: ELMER PRATT, AKA GERONIMO; INQUIRY OF GIL GARCETTI,
LOS ANGELES DISTRICT ATTORNEY; OO: FBHJ.

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RE BUREAU TELETYPE TO LOS ANGELES DATED FEBRUARY 21,
1995; TELCALL FROM CHIEF DIVISION COUNSEL SSA [REDACTED]
TO SSA [REDACTED] ON FEBRUARY 24, 1995; RELEVANT
DOCUMENTS SENT VIA SECURED FAX ON MARCH 10, 1995.

REFERENCED TELETYPE REQUESTED LOS ANGELES TO REVIEW
PERTINENT FILES FOR ANY CONSENSUAL RECORDINGS BY [REDACTED] FOR
THE PERIOD BETWEEN NOVEMBER 11, 1968 AND DECEMBER 16, 1968.

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(1-vc/fu)

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2.5/38

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PAGE TWO DE FBILA 0009 UNCLAS

ADDITIONALLY, REFERENCED TELETYPE REQUESTED INFORMATION OF THE CIRCUMSTANCES OF THE SOURCE'S COOPERATION AND THE REASON FOR DISCONTINUANCE.

A REVIEW OF ELSUR INDICES IN LOS ANGELES DID NOT REVEAL ANY RECORDINGS BY [REDACTED] FOR THE PERIOD BETWEEN NOVEMBER 11, 1968 AND DECEMBER 16, 1968. THE REFERENCED DOCUMENTS SENT VIA FAX INDICATE THAT [REDACTED] SIGNED A CONSENT FOR TELEPHONE AND NON-TELEPHONIC CONSENSUAL RECORDINGS. A CHECK OF ELSUR INDICES UNDER [REDACTED] TRUE NAME WAS NEGATIVE. LOS ANGELES WAS UNABLE TO LOCATE ANY TRANSCRIPTS OR ORIGINAL RECORDINGS WHICH ARE ALLUDED TO IN THE REFERENCED DOCUMENTS SENT VIA FAX TO THE BUREAU.

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HOWEVER, A REVIEW OF THE REFERENCED DOCUMENTS REVEALED THAT THE CONSENSUAL RECORDINGS WERE ASSIGNED A SYMBOL NUMBER AS FOLLOWS: LA 5205-R (PHONE INSTALLATION) AND [REDACTED]

[REDACTED] BOTH LA SYMBOLS LISTED ABOVE WERE ASSIGNED TO THE BLACK PANTHER FILE NUMBER 157-1618. A REVIEW OF 157-1618 WAS ALSO NEGATIVE FOR COPIES OF ANY TRANSCRIPTS OR ANY REFERENCE TO THE ORIGINAL RECORDINGS. A CHECK WITH THE ELSUR CLERK IN LOS ANGELES DISCLOSED THAT THE ORIGINAL RECORDINGS [REDACTED] AND LA 5205-R WERE PROBABLY SENT FOR

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PAGE THREE DE FBILA 0009 UNCLAS

STORAGE TO THE POCATELO RA, SALT LAKE CITY DIVISION.

POCATELO RA ADVISED THAT A REVIEW OF THEIR RECORDS INDICATED THAT THEY HAVE APPROXIMATELY 62 LARGE BOXES OF ORIGINAL TAPES IN CONNECTION WITH THE BLACK PANTHER ACTIVITIES IN LOS ANGELES UNDER FILE [REDACTED] AND UNDER THE FOLLOWING SOURCES LA 5430 AND [REDACTED] POCATELO RA ADVISED THAT THE RECORDINGS IN QUESTION COULD BE LOCATED IN ONE OF THE STORAGE BOXES. [REDACTED] POCATELO RA, OFFICE OF AUTOMATION DEPARTMENT ADVISED THAT IT WOULD TAKE APPROXIMATELY ONE WEEK TO REVIEW ALL THE BOXES. LOS ANGELES WILL LEAVE IT TO THE DISCRETION OF THE BUREAU TO REQUEST POCATELO RA TO CONDUCT A FURTHER SEARCH FOR THE ORIGINAL RECORDINGS.

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THE FOLLOWING IS A CHRONOLOGICAL ADMINISTRATIVE HISTORY OF [REDACTED] OPENED UNDER FILE [REDACTED] AND CLOSED [REDACTED] REOPENED [REDACTED] AND CLOSED [REDACTED] (DURING THIS PERIOD SOURCE PROVIDED INFORMATION ON THE LA RIOTS AND BLACK PANTHER ACTIVITIES); REOPENED [REDACTED] AND CLOSED [REDACTED] (DURING THIS PERIOD SOURCE WAS TARGETED AT AFRICAN AMERICANS INVOLVEMENT IN THE COMMUNIST PARTY); SOURCE WAS REOPENED ON [REDACTED] UNDER FILE [REDACTED]

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PAGE FOUR DE FBILA 0009 UNCLAS

[] UNDER THE SYMBOL NUMBER [] AND CLOSED []

[] (DURING THIS PERIOD SOURCE WAS TASKED TO PROVIDE

INFORMATION ON GAMBLING MATTERS IN THE AFRICAN AMERICAN

COMMUNITY). SOURCE WAS REOPENED [] AND CLOSED []

[] (DURING THIS PERIOD HE PROVIDED INFORMATION ON BLACK

PANTHER AND COMMUNIST PARTY ACTIVITIES); SOURCE WAS REOPENED

UNDER FILE [] AND CLOSED []

[] REOPENED [] AND CLOSED []

(DURING THIS PERIOD SOURCE PROVIDED INFORMATION ON GAMBLING,

COPYRIGHT AND FUGITIVE MATTERS IN THE AFRICAN AMERICAN

COMMUNITY); SOURCE WAS CLOSED BECAUSE HE/SHE WAS NO LONGER

PROVIDING VALUABLE INFORMATION ON A CONTINUING BASIS.

BT

#0009

NNNN

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